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FEDERAL REGISTER

VOLUME 25 NUMBER 90

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Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

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Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplements are now available:

Title 7, Parts 210–399, Revised	**$4.00**
Title 32, Parts 1–399	**2.00**
Parts 400–699	**2.00**
Title 35, Revised	**3.50**
Title 37, Revised	**3.50**
Title 39	**1.50**

Previously announced: Title 3 ($0.60); Titles 4–5 ($1.00); Title 7, Parts 1–50 ($0.45); Parts 51–52 ($0.45); Parts 53–209 ($0.40); Title 8 ($0.40); Title 9 ($0.35); Titles 10–13 ($0.50); Title 18 ($0.55); Title 20 ($1.25); Titles 22–23 ($0.45); Title 25 ($0.45); Title 26 (1939), Parts 1–79 ($0.40); Parts 80–169 ($0.35); Parts 170–182 ($0.35); Parts 300 to End ($0.40); Title 26, Part 1 (§§ 1.01–1.499) ($1.75); Parts 1 (§ 1.500 to End)–19 ($2.25); Parts 20–169 ($1.75); Parts 170–221 ($2.25); Part 300 to End ($1.25); Titles 28–29 ($1.75); Titles 30–31 ($0.50); Title 32, Parts 700–799 ($1.00); Parts 800–999, Revised ($3.75); Part 1100 to End ($0.60); Title 33 ($1.75); Title 36, Revised ($3.00); Title 38 ($1.00); Title 43 ($1.00); Title 46, Parts 1–145 ($1.00); Parts 146–149, Revised ($6.00); Part 150 to End ($0.65); Title 47, Parts 1–29 ($1.00); Part 30 to End ($0.30); Title 49, Parts 1–70 ($1.75); Parts 91–164 ($0.45); Part 165 to End ($1.00); Title 50 ($0.70).

Order from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Defense

Effective upon publication in the FEDERAL REGISTER, paragraph (a)(4) of § 6.104 is amended as set out below.

§ 6.104 Department of Defense.

(a) *Office of the Secretary.* * * *

(4) Three Staff Assistants.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant.

[F.R. Doc. 60-4149; Filed, May 6, 1960; 8:48 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Defense

Effective upon publication in the FEDERAL REGISTER, paragraph (a)(28) is added to § 6.304 as set out below.

§ 6.304 Department of Defense.

(a) *Office of the Secretary.* * * *

(28) Two Deputy Assistant Secretaries, Office of the Assistant Secretary of Defense (Supply and Logistics).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant.

[F.R. Doc. 60-4150; Filed, May 6, 1960; 8:48 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1960 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Dry Edible Beans]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Dry Edible Bean Loan and Purchase Agreement Program

A price support program has been announced for the 1960 crop of dry edible beans. 1960 C.C.C. Grain Price Support Bulletin 1 (25 F.R. 2380), issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1960 and subsequent crop years is supplemented as follows:

Sec.
421.5176 Purpose.
421.5177 Availability of price support.
421.5178 Eligible beans.
421.5179 Warehouse receipts.
421.5180 Determination of quantity.
421.5181 Determination of quality.
421.5182 Credit for loss or damage.
421.5183 Maturity of loans.
421.5184 Packaging and warehouse charges.
421.5185 Support rates.
421.5186 Storage in transit.
421.5187 Delivery of beans under purchase agreements.
421.5188 Settlement.

AUTHORITY: §§ 421.5176 to 421.5188 issued under sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U.S.C. 714c; 7 U.S.C. 1447, 1421.

§ 421.5176 Purpose.

Sections 421.5176 to 421.5188 prescribe additional specific regulations which, together with the general regulations contained in 1960 C.C.C. Grain Price Support Bulletin 1 (§§ 421.5001 to 421.5022) apply to loans and purchase agreements under the 1960-Crop Dry Edible Bean Price Support Program.

§ 421.5177 Availability of price support.

(a) *Method of support.* Price support will be available through farm-storage and warehouse-storage loans and through purchase agreements. Farm-storage loans will not be available to cooperative marketing associations of producers.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever beans of the eligible classes are grown in all States of the United States, except that farm-storage loans will not be available in areas where the State committee determines the beans cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support must be made at the office of the county committee which keeps the farm-program records for the farm. An eligible cooperative marketing association of producers must make application at the county committee office for the county in which the principal office of the association is located unless the State committee designates some other county ASC office.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1961, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date. Applicable documents referred to herein include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

(e) *Cooperative associations.* A cooperative marketing association which satisfies the requirements of this paragraph shall be deemed an eligible producer and shall be eligible for warehouse-storage loans and purchase agreements on eligible beans as defined in § 421.5178: *Provided,* That warehouse-storage loans may be made to an association which tenders to CCC warehouse receipts issued by it on its own beans only in those States where the issuance and pledge of such warehouse receipts are valid under State law. To be eligible for price support, the association must meet the following requirements:

(1) The association must be a producer-owned cooperative marketing association of producers which operates in good faith as a cooperative marketing association of producers under the control of its producer members.

(2) All eligible beans delivered to the association by producer members must be marketed through the association pursuant to a uniform marketing agreement between the association and each of its producer members who delivered such eligible beans.

(3) The major part of all the beans marketed by the association must be produced by producer-members, and the major part of beans of a class which is eligible for price support and which is marketed by the association, must be eligible beans produced by members who are eligible producers.

(4) The association must have authority to obtain a loan on the security of the beans and to give a lien thereon as well as authority to sell such beans.

(5) The association must maintain a record by grade of the quantities of beans of each class eligible for price support acquired by or delivered to the association from each source, and the record must also show the disposition of such beans from each source. Records must be maintained separately for eligible and ineligible beans of such class.

(6) The association shall distribute the proceeds from the disposition of all eligible beans solely to its members who are eligible producers and who delivered such beans to the association and only on a basis which results in the proceeds being distributed proportionately to such producers according to the quantity and quality of the eligible beans delivered by each eligible producer. This provision shall not be construed to prohibit the association from establishing separate pools based on grades, classes, qualities of the beans or seasonal pools based on time of acquisition or time of disposition of the beans.

(7) Beans held by the association must be made available for inspection by CCC at all reasonable times so long

as the association has beans under price support and the books and records of the association must be available to CCC for inspection at all reasonable times through May 1, 1966.

(8) Notwithstanding the requirement of subparagraph (1) of this paragraph that the association shall consist of producers, a cooperative marketing association, which includes in its membership other cooperative marketing associations composed of producer members, shall be eligible for price support if its member associations meet the requirements for price support under this paragraph, except that the requirement in subparagraph (4) of this paragraph shall be deemed to be satisfied if such member associations have the right to deliver beans of its producer members to the association applying for price support and to authorize such association to sell the beans, to obtain a loan on the security of the beans and to give a lien thereon. The association applying for price support shall: (i) In its charter, bylaws, marketing contracts or by other legal means require that its member associations meet such requirements for price support; (ii) certify to CCC that its member associations are in fact eligible for price support under such requirements; and (iii) except for the requirement that it consist of producers, otherwise qualify for price support under this paragraph.

(9) Determinations with respect to the eligibility of cooperative marketing associations of producers pursuant to this section shall be made by the Executive Vice President, CCC.

§ 421.5178 Eligible beans.

At the time the beans are placed under loan or delivered under a purchase agreement, they must meet the following requirements:

(a) The beans must have been produced in the United States in 1960 by an eligible producer.

(b) (1) The beneficial interest in the beans must be in the producer tendering the beans for a loan or for delivery under a purchase agreement and must always have been in him or in him and a former producer whom he succeeded before the beans were harvested. In the case of cooperative marketing associations, the beneficial interest in the beans must have been in the producer-members who delivered the beans to the association or to member associations meeting the requirements of § 421.5177(e) (8) and must always have been in them or in them and former producers whom they succeeded before the beans were harvested.

(2) Any producer or association in doubt as to whether the requirements of this paragraph have been fulfilled should make available to the county committee, prior to filing an application, all pertinent information which will permit a determination to be made by CCC.

(3) To meet the requirements of succession to a former producer, the rights, responsibilities and interest of the former producer with respect to the farming unit on which the beans were produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) The beans must be dry edible beans of the classes Pea, Medium White, Great Northern, Small White, Flat Small White, Pink, Small Red, Pinto, Dark Red Kidney, Light Red Kidney, Western Red Kidney, Large Lima and Baby Lima.

(d) The beans must not contain mercurial compounds or other substances poisonous to man or animals.

(e) Beans placed under warehouse-storage loan or delivered under a purchase agreement must grade U.S. Choice Handpicked, U.S. Extra No. 1, U.S. No. 1, or U.S. No. 2.

(f) (1) Beans placed under farm-storage loan must meet the requirements set forth in paragraph (e) of this section for warehouse-storage loans and purchase agreements, or must be beans which have not been commercially cleaned; which contain not in excess of 18 percent moisture; which after deduction of foreign material, contain not more than 8 percent of other defects, as these terms are defined in the United States Standards for Beans; which are not musty, moldy, sour, heating, hot, weevily, materially weathered, or otherwise of distinctly low quality; and which do not have any commercially objectionable odor. (Such beans are hereinafter referred to as "thresher run" beans.)

(2) If offered as security for a farm-storage loan, beans must have been stored in the storage structure for at least 30 days prior to inspection for measurement, sampling, and sealing, unless otherwise approved by the State committee.

§ 421.5179 Warehouse receipts.

Warehouse receipts, representing beans in approved warehouse-storage to be placed under loan, to be delivered in satisfaction of a farm storage loan, or to be acquired under a purchase agreement must meet the following requirements:

(a) Except as provided in paragraph (f) of this section, warehouse receipts must be issued in the name of the producer or cooperative marketing association if presented for a warehouse-storage loan, in the name of the producer or CCC if presented for delivery under a farm-storage loan or in the name of the producer, association or CCC if presented for delivery under a purchase agreement. Such receipts must be properly endorsed in blank so as to vest title in the holder, and must be receipts issued by a warehouse for which a CCC Form 28, "Bean Storage Agreement", is in effect and which is approved by CCC for price support purposes. The receipts must be negotiable and must cover eligible beans actually in store in the warehouse.

(b) In order to be acceptable under the loan program, each warehouse receipt, or the accompanying supplemental certificate, must contain a statement that the beans are insured in accordance with CCC Form 28, "Bean Storage Agreement", and if such insurance was not effective as of the date of deposit of the beans in the warehouse, the warehouseman must certify as to the effective date of the insurance and that the beans are in the warehouse and undamaged. The insurance on commingled beans must be obtained by the warehouseman. Insurance on beans with respect to which the warehouseman does not guarantee quantity and quality (hereinafter called identity-preserved beans) must be obtained by either the producer or the warehouseman. If the insurance is obtained by the producer, it must be assigned to the warehouseman, with the consent of the insurance company, before a loan will be made and the warehouseman must also certify that the insurance has been assigned to him with the consent of the insurance company. Insurance is not required in order for warehouse receipts to be purchased under the purchase agreement program.

(c) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show the gross and net weight of beans, the class and the grade or all grading factors used in the determination of the quality of the beans.

(d) In the case of "identity preserved" beans, the warehouse receipt shall also show the lot number, and the producer must execute the supplemental certificate and assume responsibility for the quantity and quality indicated thereon.

(e) The warehouse receipt may be subject to liens for warehouse charges only to the extent of the charges indicated in § 421.5184(b) as to be assumed by CCC.

(f) If the receipt is issued for beans of which the warehouseman is the owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own beans is not valid under State law and the warehouseman elects to deliver beans to CCC under a purchase agreement for which he is eligible under this program, the warehouse receipt shall be issued in the name of CCC.

§ 421.5180 Determination of quantity.

(a) *When loans are made*—(1) *Farm-storage or "identity-preserved" warehouse-stored beans.* (i) At the time the loan is made, the quantity of beans may be determined either by weight or if farm-stored in bulk, by measurement. Where the quantity is determined by measurement, 2.1 cubic feet shall constitute 100 pounds.

(ii) In the case of bagged beans grading U.S. No. 2 or better, loans shall be made on the basis of the net weight of the lot or on the basis of a quantity determined by multiplying the number of bags by 100 pounds, whichever is the smaller. In the case of bulk stored "identity preserved" beans grading U.S. No. 2 or better, loans shall be made on the basis of the net weight of the beans

as shown on the warehouse receipt or the supplemental certificate. In the case of thresher-run beans, loans shall be made on the basis of the net weight of sound beans in the lot. Sound beans shall be beans free from dockage and other defects as defined in the United States Standards for Beans.

(iii) If the beans are stored in bags, a deduction of ¾ pound per bag shall be made from the gross weight of bagged beans, except where the net weight is shown on the warehouse receipt.

(2) *Commingled warehouse-storage beans.* The quantity on which a loan shall be made shall be the net weight of beans shown on the warehouse receipt or supplemental certificate.

(b) *At time of delivery or acquisition*—(1) *Delivery from other than an approved warehouse or delivery or acquisition as identity-preserved in an approved warehouse.* The net weight of beans delivered to CCC from other than an approved warehouse, or delivered to or acquired by CCC in an approved warehouse as "identity-preserved" beans shall be determined by weighing the beans. In the case of bagged beans, if all the beans in the lot are not weighed, the net weight shall be determined by multiplying the average net weight of the bags weighed (but not less than 10 percent of the bags in the lot) by the total number of bags in the lot. The producer will be credited with the net weight delivered or acquired or with a quantity determined by multiplying the number of bags in the lot by 100 pounds, whichever quantity is less.

(2) *Delivery or acquisition in an approved warehouse of beans covered by a commingled warehouse receipt.* The net weight of beans delivered to or acquired by CCC in an approved warehouse where the warehouseman guarantees the quality and quantity shall be the net weight of beans specified on the warehouse receipt or supplemental certificate.

§ 421.5181 Determination of quality.

(a) The class, grade, and all quality factors shall be determined in accordance with the United States Standards for Beans.

(b) Where quality is guaranteed by the warehouseman, the class and grade of beans placed under loan or acquired or delivered under a loan or purchase agreement shall be that shown on the warehouse receipt.

(c) The class and grade of beans placed under farm-storage loan or identity-preserved warehouse-storage loan shall be determined from an official (Federal or Federal-State) lot inspection certificate, or from an official sample inspection certificate based on a sample drawn by a representative of the county committee. The State committee may require that any such inspection certificates issued prior to the date of the loan application shall be on the basis of a sample drawn within a specified time prior to the date of the loan application. Notwithstanding the foregoing provisions of this paragraph, in the case of loans on thresher-run beans the quality of the beans may be determined by the State ASC office where the Deputy Administrator, Production Adjustment, Commodity Stabilization Service, authorizes such determination.

(d) Except where quality is guaranteed by the warehouseman as provided in paragraph (b) of this section, the class and grade of beans delivered or acquired under a farm-storage or identity-preserved warehouse-storage loan or a purchase agreement shall be determined from an official lot inspection certificate dated not earlier than 30 days prior to the applicable maturity date for loans and submitted by the producer in accordance with the settlement provisions of this subpart.

(e) Inspection fees incurred in connection with the making of warehouse-storage loans and with the acquisition of beans by CCC will be for the account of the producer. Inspection fees incurred by the county committee in connection with the making of farm-storage loans will be for the account of CCC.

§ 421.5182 Credit for loss or damage.

The amount to be credited to the producer for loss or damage assumed by CCC, in accordance with § 421.5016(a), shall be determined by multiplying the number of hundredweight of sound beans, lost or damaged, by the support rate for U.S. No. 2 beans of the class lost or damaged except that if the warehouse receipt or an official inspection certificate covering the beans shows a grade of U.S. No. 2 or better, the amount credited shall be determined by multiplying the net weight of the beans lost or damaged by the support rate for the class and grade of such beans. There shall be deducted from such amount any insurance proceeds to which CCC may be entitled and the salvage value of the commodity.

§ 421.5183 Maturity of loans.

Loans mature on demand but not later than February 28, 1961, in the case of beans produced in the States of Michigan, New York, and Pennsylvania, and not later than April 30, 1961, in the case of beans produced in all other States.

§ 421.5184 Packaging and warehouse charges.

(a) *Packaging.* Unless otherwise approved by CCC, beans placed under a warehouse-storage loan must be packed 100 pounds net in new bags made of 36-inch, 10.4 ounce "A" or "B" quality common jute or heavier weight jute or provision must have been made for such packaging by the producer. Bag seams must be as strong as the full strength of the cloth. Bags must be marked to show the commodity name and class, the net weight when packed; and the name and address of the packer. Beans delivered under a farm-storage loan or purchase agreement must also meet the packaging requirements set forth in this paragraph.

(b) *Warehouse charges.* Storage, bagging, cleaning, inspection fees and all other charges, except receiving and loading out charges in the warehouse in which the beans are acquired by CCC, accruing through the applicable maturity date for loans, shall be paid by the producer prior to the time that the beans are placed under warehouse-storage loan, delivered in settlement of a farm-storage loan, or delivered under a purchase agreement, or shall be paid from the loan proceeds, settlement proceeds or purchase proceeds, whichever is applicable. Such charges include the cost of movement to a normal railroad shipping point if the warehouse is not located on a railroad, and any unpiling, turning, repiling, or other charges, except loading out charges, incident to official weight and grade determinations on identity-preserved beans. CCC will assume warehouse-storage charges (not in excess of those approved for the 1960 crop under CCC Form 28, "Bean Storage Agreement") accruing after the applicable maturity date for loans, for beans which are delivered to or acquired by CCC.

§ 421.5185 Support rates.

(a) The loan rate for eligible beans shall be the applicable support rate shown in paragraph (d) of this section, for the class, grade, and county where produced; however, except in the case of large lima beans, if the beans have been moved by truck to approved storage in a higher loan rate county, or if the warehouseman guarantees delivery by truck to approved storage or on track in a higher support rate county, the loan rate shall be the support rate for the county in which the beans are stored or to which delivery is guaranteed.

(b) The support rates per 100 pounds net weight established for dry edible beans are as follows:

Class and Area	*Rate per 100 lbs. U.S. No. 1* [1]
Pinto:	
Area I. All counties in New Mexico except McKinley, Rio Arriba, San Juan, Taos and Valencia	$5.26
Area II. All counties in Kansas, Nebraska, Oklahoma, and Texas. In Colorado, the counties of Adams, Arapahoe, Baca, Bent, Boulder, Cheyenne, Clear Creek, Crowley, Denver, Douglas, Elbert, El Paso, Fremont, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Morgan, Otero, Phillips, Prowers, Pueblo, Sedgwick, Teller, Washington, Weld, and Yuma. In Wyoming, counties of Goshen, Laramie and Platte	5.16
Area III. Counties of McKinley and Valencia in New Mexico	5.06
Area IV. All counties in Arizona, California, South Dakota and Utah. In Colorado, all counties not in Area II. In Wyoming, all counties except Goshen, Laramie, and Platte. In New Mexico, counties of Rio Arriba, San Juan and Taos	4.96
Area V. Washington	4.66
Area VI. All other States and counties	4.76
Great Northern:	
Area I. Minnesota, Nebraska, North Dakota. In Colorado, all counties east of 106 degrees longitude. In Wyoming, counties of Goshen, Laramie, and Platte	5.86
Area II. South Dakota, and all counties in Wyoming, Except Goshen, Laramie and Platte	5.66

[1] See footnote at end of table.

CLASS AND AREA—Continued	Rate per 100 lbs. U. S. No. 1 [1]
Great Northern—Con.	
Area III. All counties in Montana, Malheur County in Oregon, and counties of Ada, Bannock, Bear Lake, Bingham, Boise, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Gooding, Jerome, Lincoln, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls in Idaho	$5.46
Area IV. All other States and counties	5.36
Pea and Medium White:	
Area I. Michigan, Minnesota, Maine, New York and Wisconsin	6.21
Area II. All other States	5.71
Small White and Flat Small White	6.09
Dark Red Kidney	7.27
Light Red Kidney	7.27
Western Red Kidney	7.27
Pink	5.89
Small Red:	
Area I. Idaho and Colorado	6.04
Area II. Washington	5.94
Area III. All other States	5.99
Large Lima:	
Area I. In California, counties of Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego	8.88
Area II. All other counties	8.73
Baby Lima	4.24

[1] Premium for U.S. CHP and U.S. Extra No. 1, 10 cents except that premium for U.S. CHP on pea beans is 25 cents. Discount for U.S. No. 2, 25 cents. Loan rate for thresher-run beans shall be the loan rate for U.S. No. 1 less $2, except in Michigan and New York, where the loan rate shall be the loan rate for U.S. No. 1 less $3. Quantity on thresher-run beans is the net weight of sound whole beans.

§ 421.5186 Storage in transit.

(a) Reimbursement will be made by CCC to producers or warehousemen for paid-in rail freight on beans stored in approved warehouses, subject to the following conditions:

(1) The movement from point of origin to storage point must be an "in-line" movement as determined by CCC, and must be no greater than 100 miles from the point of production unless otherwise approved by CCC prior to the date of shipment.

(2) The freight must have been paid in by the person claiming reimbursement and he must not have been otherwise reimbursed.

(3) The warehouseman must furnish the descriptive data on all freight bills or transit tonnage slips on all eligible beans received into the storage facility at the time and in the manner stipulated in CCC Form 28, "Bean Storage Agreement", in effect with CCC for the 1960 crop.

(4) The freight bills or transit tonnage slips must be made available to CCC in accordance with the provisions of Form CCC 28, "Bean Storage Agreement".

(5) Not more than one transit stop must have been used on billing.

(6) The freight bills must be otherwise acceptable to CCC under the terms of the storage agreement.

(b) Reimbursement for paid-in freight under this section will be made by the appropriate CSS Commodity Office subsequent to actual delivery of the beans to CCC pursuant to a loan or purchase agreement.

§ 421.5187 Delivery of beans under purchase agreement.

(a) *Commingled storage in approved warehouses.* In the case of eligible beans stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of beans he elects to sell to CCC.

(b) *Other than commingled storage in approved warehouses.* In the case of beans stored in other than approved warehouse storage, or stored identity-preserved in approved warehouse storage the county committee will, on or after the loan maturity date, issue delivery instructions to the producer. The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery. The producer shall, at his expense, furnish to the county committee at the time of delivery official lot inspection and weight certificates dated not earlier than 30 days prior to the applicable maturity date for loans: *Provided, however,* That if at the time of delivery to CCC, a commingled warehouse receipt covering the beans delivered, agreed to by the producer and warehouseman is issued by an approved warehouse, inspection and weight certificates will not be required.

(c) *Storage after maturity date.* The producer may be required to retain beans stored in other than approved warehouse storage for a period of 60 days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of beans covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions and CCC cannot except delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the beans are going out of condition or are in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the beans are going out of condition or are in danger of going out of condition and that the beans cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. If such inspection shows the beans to be of an eligible grade, settlement, when delivery is completed, shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered, but not in excess of the quantity specified on the Purchase Agreement.

§ 421.5188 Settlement.

The settlement value of the beans delivered or acquired under a loan or delivered under purchase agreement shall be determined as set forth in this section.

(a) *Applicable support rate.* Settlement of loans and purchase agreements for large lima beans shall be made at the support rate for the county in which the beans are produced. Settlement of loans and purchase agreements for all other classes of beans shall be made at the support rate for the county in which the beans are produced except as follows:

(1) In the case of farm-storage loans, settlement shall be made at the support rate for the county where the beans are delivered if the beans have been delivered to such county by truck and such county has a higher support rate than the county where the beans were produced.

(2) In the case of warehouse-storage loans, both identity-preserved and commingled, (i) if the warehouse is located off the railroad, settlement will be made with the producer at the support rate for the county to which the warehouseman guarantees delivery for loading if such support rate is higher than the support rate for the county where the beans were produced, and (ii) if the beans are acquired in storage in an approved warehouse in a county having a higher support rate than the county where the beans were produced and movement to such warehouse was made by truck, settlement will be made at the support rate for the county in which acquisition is made by CCC.

(3) In the case of beans delivered under purchase agreement from other than approved warehouse storage, the provisions of subparagraph (1) of this paragraph shall be applicable. In the case of beans delivered under purchase agreement in an approved warehouse, the provisions of subparagraph (2) of this paragraph shall be applicable.

(b) *Applicable support rate for class and grade*—(1) *Commingled warehouse-storage loans.* Settlement will be made with the producer at the applicable county support rate for the class and grade of beans shown on the warehouse receipt and accompanying documents for the quantity shown thereon.

(2) *Farm-storage and identity-preserved warehouse-storage loans.* (i) In the case of eligible beans delivered to CCC from farm-storage or acquired by CCC in identity-preserved warehouse-storage under the loan program, settlement will be made at the applicable county support rate for the class and grade of the total quantity of beans delivered. The producer shall, at his expense, furnish to the county committee official lot inspection and weight certificates dated not earlier than 30 days prior to the applicable maturity date for loans. On farm-storage loans such certificates shall be furnished at the time of delivery of the beans. On identity-preserved warehouse-storage loans such certificates shall be furnished within 10 days after the applicable maturity date. In any instance where the producer fails to furnish to CCC weight or inspection certificates required for settlement, CCC

may obtain such certificates. The cost incurred by CCC in obtaining such certificates and any other fees or expenses incurred in connection with settlement on loans shall be for the account of the producer. However, notwithstanding the foregoing provisions of this subdivision, if at the time of delivery to or acquisition by CCC, a commingled warehouse receipt covering the beans delivered or acquired, agreed to by the producer and warehouseman, is issued by an approved warehouse, inspection and weight certificates will not be required and settlement with the producer will be made at the applicable county support rate for the class and grade of the beans shown on the commingled warehouse receipt and accompanying documents for the quantity shown thereon.

(ii) In the case of beans delivered under a farm-storage loan or acquired by CCC under an identity-preserved warehouse-storage loan which are of a grade for which no support rate has been established, the settlement value shall be computed at the support rate established for the class and grade placed under loan, less the difference, if any, at the time the inspection and weight certificates, or the commingled receipt, are delivered to the county committee, between the market price for the class and grade placed under loan and the market price of the beans delivered or acquired as determined by CCC: *Provided, however,* That in the case of thresher-run beans which, when delivered are not of a grade for which a support rate has been established, the settlement value shall be the support rate for beans of the same class grading U.S. No. 2, less the difference, if any, at the time of delivery, between the market price for such grade and the market price of the beans delivered, as determined by CCC: *Provided, further,* That if any such beans are sold by CCC in order to determine the market price for purposes of settlement, the settlement value shall not be less than such sales price. If upon delivery, the beans contain mercurial compounds or other substances poisonous to man or animals, such beans shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the end product shall not be consumed by man or animals, and the settlement value shall be the same as the sales price. If CCC is unable to sell such beans for the use specified above, the settlement value shall be the market value, if any, as determined by CCC, as of the date of delivery.

(iii) Any amount determined to be due CCC or the producer in settlement for difference in quantity or quality of an identity-preserved warehouse storage loan shall be paid as provided in § 421.5019(b) (2) and (3).

(3) *Purchase agreements.* Eligible beans delivered to CCC under a purchase agreement will be purchased at the applicable support rate for the class and grade of beans delivered.

(i) *Commingled storage in approved warehouses.* Beans stored commingled in approved warehouses will be purchased on the basis of the weight, grade, and other quality factors shown on the warehouse receipts and/or accompanying documents.

(ii) *Other than commingled storage in approved warehouses.* Beans stored identity-preserved in an approved warehouse and beans delivered from other than approved warehouse storage will be purchased on the basis of the weight, grade, and other quality factors shown on the official lot inspection and weight certificates and agreed to by the producer on Commodity Purchase Form 4 or 4A whichever is applicable: *Provided, however,* That if upon delivery, the beans contain mercurial compounds or other substances poisonous to man or animals, and such beans are inadvertently accepted by CCC, the beans shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial use where the end product shall not be consumed by man or animals, and the settlement value shall be the sales price: *Provided further,* That if CCC is unable to sell such beans for the use specified above, the settlement value shall be the market value, if any, as determined by CCC as of the date of delivery.

(c) *Determination of quantity for settlement purposes.* The quantity of beans on which settlement will be made shall be determined in accordance with § 421.5180(b).

(d) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading out charges on beans under loan or purchase agreement stored in a warehouse under the Bean Storage Agreement, the producer shall, upon delivery of the beans to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges authorized under the Bean Storage Agreement, provided the producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid.

(e) *Method of payment under purchase agreement settlements.* When delivery of beans under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct, on Commodity Purchase Form 4 or 4A, whichever is applicable, to whom payment of the proceeds shall be made.

Issued this 4th day of May 1960.

FOREST W. BEALL,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-4162; Filed, May 6, 1960; 8:49 a.m.]

Chapter V—Agricultural Marketing Service, Department of Agriculture

SUBCHAPTER B—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 517—FRUITS AND BERRIES, FRESH

Subpart—Cranberry Payment Program AMM 181a

Sec.
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517.485 Records and accounts, inspection of premises.
517.486 Set-off.
517.487 Officials not to benefit.
517.488 Amendment.

AUTHORITY: §§ 517.475 to 517.488 issued under sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c.

§ 517.475 General statement.

In order to reestablish the purchasing power of cranberry growers, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Public Law 320, 74th Congress, as amended, offers to make payments with respect to wholesome and marketable cranberries produced and harvested in 1959 in the United States and disposed of before November 1, 1960, subject to the terms and conditions hereinafter set forth. Payments will be computed to give an average return of $10.34 per barrel of screened cranberries to growers for their 1959 crop, including returns from commercial sales, with the payment from this program limited to a maximum of $8.02 per barrel. Such payments will be made to growers who grow cranberries for commercial markets, or to growers' cooperatives, agents, or dealers, who shall distribute such payments to growers. Growers, growers' cooperatives, agents, or dealers shall undertake to dispose of any 1959 crop cranberries on hand. Information concerning this program and forms prescribed for use hereunder may be obtained from the following:

Oregon and Washington: Robert H. Eaton, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland 5, Oreg. Telephone: CApitol 6-3361, Ext. 406.

All other States: Norman F. Horsey, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington 25, D.C. Telephone: 202 DUdley 8-2037.

§ 517.476 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C. (hereinafter referred to as the Director). The Director will authorize one or more employees of the Fruit and Vegetable Division to act as Representatives of the Secretary to approve applications for payment under this program.

§ 517.477 Definitions.

The following terms as used in this subpart shall have the following meanings:

(a) "Wholesome cranberries" means cranberries that have been harvested from bogs on which aminotriazole was not used later than 10 days after harvest of the 1958 crop and that have not been found to be contaminated by tests for aminotriazole.

(b) "Marketable cranberries" means either screened or unscreened cranberries which were sound cranberries at harvest time. Unscreened cranberries shall be treated on an equivalent screened basis.

(c) "Cranberries disposed of" means wholesome and marketable cranberries disposed of by the grower or his representative by (1) sale in commercial channels of trade, (2) donation for purposes of market development or to charitable and welfare outlets if prior approval is obtained from the Director, or (3) destruction.

(d) "Destruction" means destroying the cranberries in such a way that, in the opinion of the inspector, the cranberries are not suitable for sale in commercial channels of trade.

(e) "Net proceeds of sale" means the net amount received, including accounts receivable, for cranberries on a fresh equivalent screened basis. Such proceeds are calculated as follows: (1) For the advance payment, by deducting the marketing and operating costs incurred on the 1959 crop of cranberries to the date of the Invoice for Advance Payment, Form FV-5, from the gross amount received (including accounts receivable) for 1959 crop cranberries to the same date; and (2) for the final payment, by deducting the marketing and operating costs incurred on 1959 crop cranberries disposed of prior to November 1, 1960, from the gross amount received (including accounts receivable) for such cranberries. No farm production or harvesting costs shall be included in calculating net proceeds of sale.

(f) "Representative" means a growers' cooperative, agent, or dealer through whom growers market their cranberries in fresh or processed form, under pooling or similar arrangements (hereinafter referred to as the pool) whereby such representatives take title to (or have the power to sell or otherwise dispose of) the cranberries with the understanding that each grower will receive the same rate of return for his cranberries as all other growers in the pool, with adjustment on an equitable basis for services performed. A "pooling or similar arrangement" does not include cases where growers' cooperatives purchase cranberries at a fixed price with no further obligation to the growers other than an obligation to pay patronage refunds and the grower has no obligation to the cooperative if it fails to realize all or any part of such price upon resale.

(g) "Filing," with respect to the application and certification and invoice forms, shall be deemed to take place at the time such forms are postmarked, if mailed, or at the time received by the Director if otherwise delivered.

§ 517.478 Eligibility for payment.

Any cranberry grower or his representative located in the continental United States will be eligible to receive payment under this subpart if:

(a) He executes and files a Grower's Application and Certification, Form FV-3, or a Growers' Representative's Application and Certification, Form FV-4 (either or both are hereinafter sometimes referred to as the application), whichever is applicable, on or before June 20, 1960,

(b) His application is approved by a representative of the Secretary, and

(c) He otherwise complies with all the terms and conditions of this subpart.

§ 517.479 Application for payment.

(a) Any cranberry grower desiring to receive payment under this program shall execute and file an application, Form FV-3, with the Director, on or before June 20, 1960. Such application shall set forth:

(1) The quantity of wholesome and marketable cranberries of the 1959 crop harvested and not placed in any pool.

(2) The quantity of such cranberries sold in commercial channels of trade.

(3) The quantity of such cranberries held by grower.

(4) The total amount received for cranberries sold (including accounts receivable), the date of sale, and the name and address of the purchaser.

(5) The supporting statement and signature of a person who has knowledge of the grower's cranberry production.

(b) Any representative desiring to receive payment under this program on behalf of growers for cranberries with respect to which the growers do not file on their own behalf shall execute and file with the Director on or before June 20, 1960, a composite application, Form FV-4, covering the total quantity of such cranberries in his pool. Such application shall set forth:

(1) The quantity of wholesome and marketable cranberries of the 1959 crop harvested.

(2) The quantity of such cranberries disposed of.

(3) The quantity of such cranberries held in the pool.

(c) Applicants will be notified of the approval or the disapproval of their applications, or of the necessity for any supplemental or additional information. In no event may any approved application be amended to revise the quantity of harvested berries upward.

(d) In completing the application form, the quantity of unscreened berries shall be converted to their equivalent quantity of screened berries. This shall be done, in the case of test boxes, by determining the average net weight of wholesome and marketable berries suitable for the fresh market or for processing. On unscreened berries on which tests were not run, the equivalent quantity of screened berries shall be determined on the basis of the quantity of berries which would have resulted if they had been screened.

(e) A growers' cooperative shall attach to its application, Form FV-4, a list showing the name, address, and quantity of cranberries for each grower whose cranberries are covered by the application. A representative other than a growers' cooperative shall support his application, Form FV-4, for each grower concerned, with a Grower's Statement of Cranberries Placed in Agent's or Dealer's Pool, Form FV-4-1.

(f) A grower, in submitting an application, shall certify that the cranberries covered therein are not part of any pool, and shall warrant that such cranberries have not been and will not be included in any other application filed by anyone else in his behalf. A representative, in submitting an application, shall certify that title to cranberries covered therein is vested in the applicant under 1959 crop pooling or similar arrangements with growers (or that the applicant has power to sell or otherwise dispose of such cranberries), and that net proceeds from the sale of such berries from the pool are distributed to growers.

§ 517.480 Payment.

(a) *Basis of payment.* Payments to a grower or his representative will be made in accordance with the provisions of this subpart with respect to the quantity of wholesome and marketable cranberries harvested by the grower in 1959 and disposed of before November 1, 1960.

(b) *Rate of payment.* The rate of payment to a grower or his representative will be calculated by subtracting the average net proceeds of sale per 100-pound barrel received by or due to the grower for such cranberries from $10.34 per barrel, in the case of screened berries, and $9.74 per barrel, in the case of unscreened berries (net weight on an equivalent screened basis), but in no event will payment be made to a grower or his representative at a rate of more than $8.02 per 100-pound barrel of cranberries. No payment will be made under this subpart if the grower's net proceeds of sale equal or exceed $10.34 per barrel for screened berries or $9.74 per barrel for unscreened berries. Furthermore, notwithstanding any other provision of this subpart, if the total quantity of cranberries covered by approved applications on which payment is due under this subpart, when multiplied by the rates of payment prescribed herein, would result in total payments which would exceed the amount available for this program, the rate of payment will be reduced by prorating the total funds available among the growers and their representatives on an equitable basis as determined by the Director.

§ 517.481 Certificate of inspector.

The grower or his representative shall be responsible for obtaining from the Fresh Fruit and Vegetable Federal or Federal-State Inspection Service serving his area an inspector to certify concerning the quantity of cranberries being destroyed and to certify that such cranberries have been destroyed as defined in § 517.477(d). The grower or his representative shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of cranberries being destroyed. The cost of determining the quantity, certifying that destruction has been performed, and issuing certificates thereof shall be borne by the United States Department of Agriculture (hereinafter referred to as USDA). The original of the appropriate Certificate(s) of Inspector, Form FV-7 (frozen), or Certificate(s) of Inspector, Form FV-7-1 (not frozen), shall be attached by the grower or his representative to the Invoice for Advance Payment, Form FV-5, in support of any

quantity shown as disposed of by destruction under item 4(b) of such form, and to the Invoice for Final Payment, Form FV–6, in support of any additional quantity disposed of by destruction and included in any such quantity shown under item 4(b) of such form.

§ 517.482 Invoices for payment.

(a) *Invoice for advance payment.* Growers or their representatives shall file an Invoice for Advance Payment, Form FV–5, on or before June 20, 1960, and payment will be made thereunder as soon as possible after receipt thereof and approval of his application. An advance payment will be made on the basis of the total number of barrels of wholesome and marketable cranberries harvested from the 1959 crop, whether or not such cranberries have been disposed of at the time of filing the Invoice for Advance Payment. The amount of the advance payment will be $4.00 per 100-pound barrel of cranberries, unless the Invoice for Advance Payment indicates that the net proceeds of sale for cranberries already disposed of averages more than $6.34 per barrel for screened berries or $5.74 per barrel for unscreened berries, based on the total number of barrels harvested from the 1959 crop, in which case the advance payment will be reduced below $4.00 by the amount of the excess. A grower or his representative who files an Invoice for Advance Payment shall file an Invoice for Final Payment, Form FV–6, and refund all or any part of any advance payment received by him which as a result of the return received upon disposition of cranberries, is not due under this subpart.

(b) *Invoice for final payment.* Growers or their representatives shall file an Invoice for Final Payment, Form FV–6, with the Director on or before November 15, 1960. Such Invoice for Final Payment shall show disposition of all or any part of the quantity of cranberries previously reported on hand or held in the pool. Growers or their representatives who have disposed of all their cranberries at the time of filing their application or at the time of filing an Invoice for Advance Payment may at the same time execute and file an Invoice for Final Payment. However, no final payment will be made until after November 15, 1960, unless it has been determined by the Director at an earlier date that proration of final payment will not be necessary (see § 517.480(b)). In cases in which advance payment was made, no additional payment will be made unless the information on the Invoice for Final Payment shows that the grower or his representative is entitled thereto. Failure of a grower or his representative, who received an advance payment, to file an Invoice for Final Payment shall be prima facie evidence that he is not entitled to retain such advance payment, and such grower or his representative shall repay the advance promptly upon demand, unless he establishes that he is entitled to retain all or any part thereof.

§ 517.483 Distribution by representatives to growers.

A representative who filed a composite application on Form FV–4 shall distribute promptly in cash to each of the growers entitled thereto the payments he receives, except that a representative whose advance payments to any grower on pooled 1959 crop cranberries have not been fully recovered from the net proceeds of sale of such cranberries, may retain such portion of the payments received on behalf of such grower under this program as will be sufficient for such representative to recover such advances. Funds in excess of such advances not distributed as herein provided shall be returned to USDA.

§ 517.484 Compliance with program provisions.

If the Director determines that payments have been made which were not due under the provisions of this subpart, the grower or his representative to whom payment was made, shall refund such payment immediately upon being advised of such determination. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding the Government will be subject to prosecution under the applicable civil and criminal provisions of the United States Code.

§ 517.485 Records and accounts, inspection of premises.

Growers and growers' representatives shall keep, and maintain for a period of 3 years after the effective date of this subpart, complete and accurate records and accounts involving any application or claim for payment hereunder, including records pertaining to the weights of all cranberries, both screened and unscreened, and all computations made in determining the screened equivalent of unscreened berries. Growers and representatives shall permit authorized representatives of USDA, at any reasonable time, to have access to their premises to check quantities of cranberries on hand and to make such verification of their applications and invoices for payment as USDA deems necessary, including, but not limited to, inspection of the books and records.

§ 517.486 Set-off.

If the grower, or his representative, is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the grower or his representative hereunder. Setting off shall not deprive the grower or his representative of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 517.487 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a cranberry grower.

§ 517.488 Amendment.

This subpart may be amended at any time but the amendment shall not be effective earlier than the date of filing with the FEDERAL REGISTER.

NOTE: The record keeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date. This offer shall be effective May 9, 1960.

Dated this 4th day of May, 1960.

FLOYD F. HEDLUND,
Authorized Representative of the Secretary of Agriculture.

[F.R. Doc. 60-4158; Filed, May 6, 1960; 8:49 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 362—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Interpretation With Respect to Warning, Caution and Antidote Statements Required To Appear on Labels of Economic Poisons

Since the issuance of Interpretation No. 18, Revision 1, with respect to the warning, caution and antidote statements required to appear on labels of economic poisons, human use experience has demonstrated that injury and even death can follow failure to observe standard recommendations for the use of protective clothing and devices while applying dusts containing parathion and related products.

Accident records show that deaths have resulted from use of low-percentage dusts with less care than their actual human hazard requires. Even though the available evidence indicates that injuries or deaths have occurred only when certain warning statements were ignored, stronger precautionary labeling is justified than is now required on low-percentage dusts.

Therefore, pursuant to the authority vested in me by § 362.3 of the regulations (7 CFR 362.3) under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135–135k), the following organic phosphate insecticides are found to be "highly toxic" at all effective concentrations, and subparagraphs (46), (76), and (101) of § 362.116(d) (Interpretation No. 18, Revision 1) with respect to warning, caution, and antidote statements required to appear on labels of economic poisons (7 CFR 362.116) are

accordingly amended and revised to read as follows:

(46) *O,O-Diethyl O(and S)-(ethylthio) ethyl phosphorothioate (Demeton) and O,O-Diethyl S-2-(ethylthio) ethyl phosphorodithioate.*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and wash skin immediately with soap and water.

Warning: Poisonous If Swallowed, Inhaled, Or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be reentered until the drifting insecticide and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and warm water before eating or smoking. Wash all contaminated clothing with soap and hot water before re-use.

(76) *Parathion (O,O-Diethyl O,p-nitrophenyl thiophosphate)*—(i) *All concentrations (except aerosols; see below).*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact, remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing, and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for parathion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be re-entered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before re-use.

(ii) *Aerosols—greenhouse use.*

☠ Poison ☠

Antidotes: Internal. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Use only while wearing a full-face mask of a type passed by the U.S. Department of Agriculture for parathion protection. Replace canister as directed. Do not get on skin. Wear protective clothing and natural rubber gloves. Wash hands, arms, and face with soap and water after using the bomb. Wash contaminated clothing with soap and hot water before re-use. Do not contaminate feed and foodstuffs.

(101) *Tetraethyl pyrophosphate.*

☠ Poison ☠

Antidote: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm and quiet. Call a Physician Immediately!

If on skin. Wash with large amounts of soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Do not get in eyes or on skin. Do not breathe dust or spray mist. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for tetraethyl pyrophosphate protection. Wear natural rubber gloves, protective clothing and goggles. Keep all unprotected persons out of operational area or vicinity where there may be danger of drift until one hour after spraying or dusting is completed.

Effective date. These amendments and revisions of Interpretation No. 18, Revision 1 shall become effective upon their publication in the FEDERAL REGISTER, when they shall supersede the previously published paragraphs of Interpretation No. 18, Revision 1, effective December 21, 1954.

Issued this 29th day of April 1960.

E. D. BURGESS,
Plant Pest Control Division, Agricultural Research Service.

[F.R. Doc. 60-4145; Filed, May 6, 1960; 8:47 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 196]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.496 Valencia Orange Regulation 196.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 5, 1960.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., May 8, 1960, and ending at 12:01 a.m., P.s.t., May 15, 1960, are hereby fixed as follows:

(i) District 1: 600,000 cartons;

(ii) District 2: 341,536 cartons;

(iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 6, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-4221; Filed, May 6, 1960; 11:24 a.m.]

[Lemon Reg. 845]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.952 Lemon Regulation 845.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 3, 1960.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., May 8, 1960, and ending at 12:01 a.m., P.s.t., May 15, 1960, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 418,500 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 5, 1960.

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-4181; Filed, May 6, 1960; 9:06 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 8—INTERPRETATIONS

Price-Anderson Act

An interpretation of section 170 is hereby added to the regulations in Title 10, Chapter 1, CFR Part 8, which contains interpretations of the Atomic Energy Act of 1954 (68 Stat. 919) and of regulations of the Atomic Energy Commission issued thereunder.

§ 8.2 Interpretation of Price-Anderson Act, section 170 of the Atomic Energy Act of 1954.

(a) It is my opinion that an indemnity agreement entered into by the Atomic Energy Commission under the authority of the Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), hereafter cited as "the Act," as amended by Public Law 85-256 (the "Price-Anderson Act") (42 U.S.C. § 2210) indemnifies persons indemnified against public liability for bodily injury, sickness, disease or death, or loss of or damage to property, or for loss of use of property caused outside the United States by a nuclear incident occurring within the United States.

(b) Section 170 authorizes the Commission to indemnify against "public liability" as defined in section 11(u) of the Act.[1] Coverage under the Act therefore is predicated upon "public liability," and requires (1) "legal liability" for (2) a "nuclear incident." Determination of the Act's coverage, therefore, necessitates a finding that these two elements are present.

(c) In the case of damage outside of the United States caused by a nuclear facility based in the United States there would be a "nuclear incident" as defined in section 11(o) since there would be an "occurrence within the United States causing * * * damage."[2] The "occurrence" would be "within the United States" since "occurrence" is intended by the Act to be "that event at the site of the licensed activity * * * which may cause damage rather than the site where the damage may perhaps be caused." S. Rep. 296, 85th Cong., 1st Sess., p. 16 (1957) (hereafter cited as Report). In Section 11(o) an "occurrence" is that which causes damage. It would be, therefore, an event taking place at the site. This definition of "occurrence" is referred to in the Report at page 22 and is crucial to the Act's placing of venue under section 170(e).[3] In its definition of "nuclear incident," the Act makes no limitation upon the place where the damage is received but states only that the "occurrence" must be within the United States.

(d) Similarly, the requirement of "legal liability" would be met. The words of the Act impose no limitation that the liability be one for damage caused in the United States but, on the contrary, are exceedingly broad permitting indemnification for "any legal liability." In the most exhaustive study of the subject, it is stated that the phrase "any legal liability" indicates that liability for damage outside the United States is covered by the Act. Atomic Industrial Forum, Financial Protection Against Atomic Hazards 61 n. 355 (1957).

(e) Thus the precise language of the Act provides coverage for damage ensuing both within and without the United States arising out of an occurrence within the United States. There would be no occasion for doubt were it not for a single statement contained in the Report of the Joint Committee on Atomic Energy on the Price-Anderson Act. The Report states, at p. 16 that "[i]f there is anything from a nuclear incident at the licensed activity which causes injury abroad, or if there is any activity abroad which causes further injury in the United States the situation will require further investigation at that time." This sentence follows an explicit and lengthy statement that the "occurrence" is an event at the site of the activity:

> * * * The occurrence which is the subject of this definition is that event at the site of the licensed activity, or activity for which the Commission has entered into a contract, which may cause damage, rather than the site where the damage may perhaps be

[1] SEC. 11u. "The term 'public liability' means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. 'Public Liability' also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs."

[2] SEC. 11o. "The term 'nuclear incident' means any occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: * * *"

[3] "In order to provide a framework for establishing the limitation of liability, the Commission or any person indemnified is permitted to apply to the appropriate district court of the United States which has venue in bankruptcy matters over the site of the nuclear incident. Again it should be pointed out that the site is where the occurrence takes place which gives rise to the liability, not the place where the damage may be caused * * *." Report, p. 22.

caused. This site must be within the United States. The suggested exclusion of facilities under license for export was not accepted. This is because the definition of "nuclear incident" limits the occurrence causing damage to one within the United States. It does not matter what license may be applicable if the occurrence is within the United States. If there is anything from a nuclear incident at the licensed activity which causes injury abroad or if there is any activity abroad which causes further injury in the United States the situation will require further investigation by the Congress at that time * * *

Read literally, the last sentence would seem inconsistent with the preceding statement. It is, however, possible to read the sentence as consistent with the preceding statement if it is taken as indicating a recognition by Congress of the fact that the statutory limitation of liability to $500,000,000 would probably not limit claims by foreign residents to that amount in foreign courts and that therefore the persons indemnified were not fully protected against bankrupting claims, one of the primary purposes of the bill.[4]

(f) The point in question received scant consideration during the hearings preceding adoption of the bill held by the Joint Committee on Atomic Energy. A summary of the study of the Atomic Industrial Forum, cited above, was introduced into the record of the hearing and included a conclusion that the provisions of the bill seemed to cover the situation.[5] That conclusion would seem entitled to more than ordinary weight since the Forum study received the careful consideration of the Joint Committee,[6] and the study referenced a statement from the 1956 Report very similar to the confusing statement in the 1957 Report noted above.[7]

(g) There was also a rather ambiguous colloquy in the hearings between Representative Cole and Mr. Charles Haugh in which Representative Cole indicated that the Joint Committee "* * * will do pretty well if we successfully protect the American people and property owners in this country without worrying about those that live abroad."[8]

(h) Congress, in enacting the Price-Anderson Indemnity Act added to section 2 of the Atomic Energy Act of 1954, a new subsection which stated, inter alia:

In order * * * to encourage the development of the atomic energy industry, * * * the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

This statutory purpose is frustrated if the atomic energy industry is not protected from bankrupting liabilities for damages caused abroad by an accident occurring in the United States.[9] In the Report, the Joint Committee on Atomic Energy made explicit mention of the fact that the private insurance to be provided for reactor operators included coverage for damage in Canada and Mexico and, at another point, noted the Committee's hope that the insurance contract in its final form would cover the same scope as the bill.[10]

(i) It is my opinion that since the language of the Act draws no distinction between damage received in the United States and that received abroad, none can properly be drawn. To read the Act as imposing such a limitation in the absence of statutory direction and in the light of an avowed Congressional intention to encourage the development of the atomic energy industry would be unwarranted. The confusing sentence cited in the Report must, therefore, be read consistently with the language of the Act in the manner suggested above, i.e., as recognizing Congressional inability to limit foreign liability, or must be ignored as inconsistent with the broad coverage of the statutory language.

L. K. OLSON,
General Counsel.

APRIL 26, 1960.

[F.R. Doc. 60-4115; Filed, May 6, 1960; 8:45 a.m.]

[4] Atomic Industrial Forum, Financial Protection Against Atomic Hazards, The International Aspects, p. 52 (1959)

[5] Hearings before the Joint Committee on Atomic Energy, Governmental Indemnity and Reactor Safety, 85th Cong., 1st Sess., p. 181 (1957) (hereinafter referred to as "Hearings.")

[6] Hearings, p. 168.

[7] Hearings, p. 182.

[8] Hearings, p. 97. It is significant to note that Mr. Haugh stated at that point the problem of the reactor operator who is concerned with any type of liability. He noted that the insurance contracts would cover "* * * the instance where * * * something happen[ed] out of the country and a suit is brought in the United States on that."

[9] The Atomic Industrial Forum study notes that "[T]o be adequate, the governmental indemnity must cover industry's liability to residents of the countries who suffer as a result of an accident at an installation based in the United States." p. 61. This is certainly the case and one of the major Congressional purposes is frustrated should the Act be said to be unclear on this point. The principal reason for the conclusion that there is coverage reached in the Forum study is the fact that Price-Anderson provides indemnity for "any legal liability." Arthur Murphy, Director of the study, in a recent article, has stated that the confusing sentence in the Report is "* * * inconsistent with the flat coverage of any legal liability by the indemnity." Murphy, Liability for Atomic Accidents and Insurance, in Law and Administration in Nuclear Energy 75 (1959). In the testimony before the Joint Committee last year, Professor Samuel D. Estep, one of three authors of the comprehensive study of Atoms and the Law apparently relying upon the legislative history, stated that the problem of a reactor accident in the United States causing damage in a foreign country was unclear, presumably since he considered the phrase "any legal liability" directed at a different problem. Hearings before the Joint Committee on Atomic Energy, Indemnity and Reactor Safety, 86th Cong., 1st Sess., p. 77 (1959); Stason Estep, and Pierce, Atoms and the Law, 577 (1959). Professor Estep stated that there "surely ought to be" coverage and suggested a clarifying amendment. His statement that the phrase "any legal liability" covers only the question of time restrictions for claims seems to me erroneous since the language used, "any legal liability," seems intentionally broad. Additionally, should this very narrow reading be given to admittedly broad statutory language, the Congressional purpose would be frustrated.

[10] Report, p. 11.

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 252; Amdt. 144]

PART 507—AIRWORTHINESS DIRECTIVES

Boeing 707 Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring modification of the outboard aileron balance tab to correct improper rigging on certain Boeing 707 aircraft was published in 25 F.R. 683. Due consideration has been given to all comments received. However, issuance of the airworthiness directive is necessary due to failures experienced during an actual dive incident. An extension of the compliance date from May 15, 1960, to July 1, 1960, has been made to provide a reasonable time to accomplish the required modification.

In consideration of the foregoing § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

BOEING. Applies to the following 707 Series aircraft only: Serial Numbers 17586 through 17596, 17609 through 17612, 17628 through 17648, 17658 through 17672, 17696 through 17702, 17925 through 17927.

Compliance required as indicated.

As a result of one known incident wherein aggravated dutch roll was experienced due to improper rigging of the outboard aileron balance tab, the following modifications shall be accomplished:

Unless already accomplished, prior to July 1, 1960:

(a) Replace aileron quadrant rod assembly P/N 90-2480-3001 with redesigned rod assembly P/N 69-10829 (LH and RH side).

(b) Replace support channel P/N 6-83872-2000 located on beam installation P/N 9-65133 (aileron lockout crank) with new channel P/N 69-10833. Adjust stop in accordance with maintenance manual procedure.

(c) Revise rigging of outboard aileron balance tab to 1.5 degrees (−0.5 degrees) down with the aileron in the neutral position.

(Boeing Service Bulletin No. 583 dated September 24, 1959, pertains to this same subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on May 3, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60-4116; Filed, May 6, 1960; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59–LA–63]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Extension of Federal Airway and Associated Control Areas

On December 5, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 9791) stating that the Federal Aviation Agency proposed to extend VOR Federal airway No. 1504, and its associated control areas, from Malad City, Idaho, to Casper, Wyo., via Big Piney, Wyo. The Big Piney VOR, at latitude 42°34'47" N., longitude, 110°06'27" W., was commissioned November 23, 1959.

Although not mentioned in the notice, an amendment to § 601.8001 is required. This change is minor in nature, since it simply amends the wording in a caption in the section designating positive control route segments for VOR Federal airway No. 1504 to conform to the description of the modified airway.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons set forth in the notice, § 600.6604 (24 F.R. 10528), § 601.6604 (24 F.R. 10606) and § 601.8001 (24 F.R. 10609) are amended as follows:

1. Section 600.6604 is amended to read:

§ 600.6604 VOR Federal airway No. 1504 (San Francisco, Calif., to Casper, Wyo., and Lone Rock, Wis., to Washington, D.C.).

From the INT of the Oakland VORTAC 221° True and the Salinas, Calif., VOR 319° True radials; via the Oakland, Calif., VORTAC; Sacramento, Calif., VOR; INT of the Sacramento VOR 055° True and the Reno VOR 230° True radials; Reno, Nev., VOR; Lovelock, Nev., VORTAC; Battle Mountain, Nev., VOR; Elko, Nev., VOR; Wells, Nev., VOR; Malad City, Idaho, VOR; Big Piney, Wyo., VOR; to the Casper, Wyo., VOR. From the Lone Rock, Wis., VOR via the INT of the Lone Rock VOR 103° True and the Milwaukee VOR 273° True radials; Milwaukee, Wis., VOR; INT of the Milwaukee VOR 102° True and the Pullman VOR 303° True radials; Pullman, Mich., VOR; Litchfield, Mich., VOR; INT of the Litchfield VOR 098° True and the Carleton VOR 264° True radials; Carleton, Mich., VOR; INT of the Carleton VOR 097° True and the Cleveland VOR 327° True radials; Cleveland, Ohio, VOR; Navarre, Ohio, VORTAC; Wheeling, W. Va., VOR; Uniontown, Pa., VORTAC; Grantsville, Md., VOR; Front Royal, Va., VOR; INT of the Front Royal VOR 112° True and the Washington VOR 245° True radials; to the Washington, D.C. VOR.

2. Section 601.6604 is amended to read:

§ 601.6604 VOR Federal airway No. 1504 control areas (San Francisco, Calif., to Casper, Wyo., and Lone Rock, Wis., to Washington, D.C.).

All of VOR Federal airway No. 1504.

§ 601.8001 [Amendment]

3. In the text of § 601.8001 *Positive control route segments,* delete *"VOR Federal airway No. 1504 (San Francisco, Calif., to Washington, D.C.)"* and substitute therefor *"VOR Federal airway No. 1504 (San Francisco, Calif., to Casper, Wyo., and Lone Rock, Wis., to Washington, D.C.)."*

These amendments shall become effective 0001 e.s.t., June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–4120; Filed, May 6, 1960; 8:45 a.m.]

[Airspace Docket No. 59–WA–165]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On September 24, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 7705) stating that the Federal Aviation Agency was considering an amendment to § 601.2190 of the regulations of the Administrator, which would modify the Atlantic City, N.J., control zone. The present control zone includes the airspace within a seven mile radius of the Atlantic City NAFEC airport with an extension southeast bounded by a line lying three nautical miles off shore.

As stated in the notice, there now exists a requirement for the expansion of this control zone to provide adequate controlled airspace for aircraft conducting instrument approaches to the NAFEC airport; radar vector service for large numbers of aircraft when experimental air traffic saturation tests are being conducted, and when other controlled flight test projects are being conducted by the National Aviation Facilities Experimental Center of the Federal Aviation Agency. It was proposed to extend the Atlantic City control zone to include the airspace within a sixteen mile radius of the Atlantic City NAFEC airport excluding the portions which overlie the Brigantine, N.J., Restricted Area (R–28) and the Atlantic City off-shore Warning Area (W–107). Restricted Area (R–28) was revoked in Airspace Docket No. 59–NY–46 (25 F.R. 1608) and need no longer be considered in any expansion of the Atlantic City control zone.

Written comments objecting to the proposal were received from the Aircraft Owners and Pilots Association, from the National Aviation Trades Association, and from the Department of the Air Force. The AOPA comments state that adequate justification had not been presented supporting the designation of an abnormally large control zone, and that a control zone of such size was not in accordance with stated principles governing the dimensions of such controlled airspace. The NATA regional airspace representative, also representing AOPA, similarly objected stating that adequate justification had not been presented for a control zone of excessive area, and that the expansion would encompass the Ocean City, Bader Field and Somers Point Airports, thus interfering with their operation. The Department of the Air Force commented stating that the proposed zone would have serious impact on terminal operations at McGuire AFB to the extent that it would conflict with holding pattern airspace serving the base; that the proposed zone would overlie a segment of Victor 16 resulting in NAFEC approach control managing en route traffic with consequent complication of coordinating procedures; that the activities outlined in the Notice constituting the requirement for the proposed zone were not unlike those encountered at other large terminals, and that the proposed zone would not qualify under the definition of a control zone contained in Civil Air Regulations Amendment 60–14.

The Federal Aviation Agency recognizes that the sixteen mile radius zone proposed is extraordinary in size and encompasses airspace in addition to that required to protect published standard instrument approach procedures. However, the experimental and test activities to be conducted by NAFEC in the Atlantic City area are unique in nature and could not be successfully and safely conducted within the confines of a standard assignment of controlled airspace. The testing of newly developed equipment and traffic control systems must utilize high performance type aircraft and all altitudes within an expanded terminal area. Vectoring numbers of aircraft at altitudes considerably below 1000 feet in areas other than approach paths to NAFEC is required to evaluate advanced radar and computer equipment as well as experimental control systems.

In consideration of the objections received, additional studies of the experimental projects currently under test, and programmed for the immediate future, have been conducted. Results of these studies indicate that NAFEC can, at this time, limit its operations to a zone of somewhat smaller dimensions than those proposed. Therefore, the Atlantic City control zone is designated as a twelve mile radius, rather than the sixteen mile radius proposed in the Notice, with an extension to the east bounded by a line

lying three nautical miles offshore, and excluding the airspace bounded by the north arc of a two-mile radius of the Ocean City airport. This will leave the Ocean City airport outside the Atlantic City control zone. The Bader Field and Somers Point airports were within the previously designated seven mile radius control zone. The Department of the Air Force has withdrawn their objections to the expanded zone following an informal and detailed review of the requirement for the zone and assurance that any air traffic control problems encountered in relation to McGuire AFB operations and en route traffic on V–16 would be resolved by air traffic management on a procedural basis.

The Air Transport Association concurred in the action proposed, and the Air Line Pilots Association commented stating that they had no objection to the proposal. No other comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), § 601.2190 (24 F.R. 10580) is amended to read:

§ 601.2190 Atlantic City, N.J., control zone.

Within a 12-mile radius of the geographical center of the NAFEC airport (latitude 39°27'25" N., longitude 74°34'45" W.), including the airspace bounded on the SW by the 176° True radial of the Atlantic City, N.J., VORTAC to a point 3 nautical miles offshore, bounded on the SE by a line lying 3 nautical miles offshore, and bounded on the NE by the 112° True radial of the Atlantic City VORTAC, and excluding the airspace bounded by the N arc of a two-mile radius of the geographical center of the Ocean City airport (latitude 39°16'00" N., longitude 74°36'15" W.).

This amendment shall become effective 0001 e.s.t. June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director Bureau of Air Traffic Management.

[F.R. Doc. 60–4117; Filed, May 6, 1960; 8:45 a.m.]

[Airspace Docket No. 59–WA–51]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On February 3, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 915) stating that the Federal Aviation Agency was considering an amendment to § 601.2155 of the regulations of the Administrator which would modify the Meridian, Miss., control zone.

As stated in the notice, the Meridian control zone presently includes the airspace within a 5-mile radius of Key Field with an extension 2 miles either side of the northwest course of the Meridian radio range extending from the radio range to a point 10 miles northwest and an extension within 2 miles either side of the 314° True radial of the Meridian VORTAC from the VORTAC to a point 10 miles northwest. The Federal Aviation Agency is designating an extension within 2 miles either side of the Meridian ILS localizer south course extending from the 5-mile radius zone to the outer marker compass locator. This extension to the south will provide protection for aircraft executing ADF approaches based on the ILS outer marker. Concurrently, the present control zone extensions to the northwest are extended to 12 miles northwest of the VORTAC and the radio range station, respectively, in order to provide protection for aircraft executing standard VORTAC and radio range instrument approaches. This action will result in the Meridian, Miss., control zone being designated within a 5-mile radius of Key Field, Meridian, Miss., (latitude 32°19'55" N., longitude 88°44'55" W.), within 2 miles either side of the northwest course of the Meridian radio range extending from the radio range to a point 12 miles northwest and within two miles either side of the 314° True radial of the Meridian VORTAC extending from the VORTAC to a point 12 miles northwest and within 2 miles either side of the Meridian ILS localizer south course extending from the 5-mile radius zone to the outer marker compass locator.

The Aircraft Owners and Pilots Association concurred with the designation of the control zone extension to the south. However, AOPA stated the following concerning the northwest extensions:

> With respect to the proposed extension to the northwest of the control zone extensions currently established for the low frequency radio range and for the VOR, we do not see the need for either the extensions proposed or the extensions as they exist at this time. Although the instrument approach permits passing over these radio facilities at less than 1000 feet (803 feet above the level of the surface of the airport), they are within controlled airspace which currently extends down to 700 feet above the ground.
>
> The Aircraft Owners and Pilots Association (AOPA) accordingly must object to that portion of this proposal involving control zone extensions to the northwest as a designation of airspace which does not meet criteria for the establishment of control zones.

A control zone is defined in Civil Air Regulations as "An airspace of defined dimensions designated by the Administrator, extending upwards from the surface, to include one or more airports, within which rules additional to those governing flight in control areas apply for the protection of air traffic."

Under the present Federal Aviation Agency Air Traffic control procedures, it is permissible under certain weather conditions for aircraft to fly below the 700 foot floor of control areas without prior air traffic control clearance. If control zone extensions were designated only out to the point where aircraft descend below 700 feet above the terrain rather than 1000 feet, it is possible for the situation to exist whereby an aircraft executing an instrument approach under the control of air traffic control would conflict with an en route aircraft flying in the same area below 700 feet, not being controlled. Therefore, the Federal Aviation Agency considers the policy of designating control zone extensions out to the point where aircraft descend below 1000 feet above the terrain a safety factor.

In this instance, the control zone extensions to the northwest are considered necessary because in accordance with the prescribed VORTAC and radio range instrument approaches, the procedure turns are completed at 1600 feet MSL within 10 nautical miles and then descents are made to cross the facilities at 1100 feet MSL which is 803 feet above the surface of the airport. Therefore, the Federal Aviation Agency, in the interest of safety, considers that the control zone extensions based on the 314° True radial of the Meridian VORTAC and the northwest course of the Meridian radio range are required for the full protection of the instrument approaches.

No other adverse comments were received. The Department of the Air Force and Air Transport Association concurred in the proposal.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), § 601.2155 (24 F.R. 10579) is amended to read:

§ 601.2155 Meridian, Miss., control zone.

Within a 5-mile radius of the geographical center of Key Field Meridian, Miss. (latitude 32°19'55" N., longitude 88°44'55" W.), within 2 miles either side of the NW course of the Meridian RR extending from the RR to a point 12 miles NW, within 2 miles either side of the 314° True radial of the Meridian VORTAC extending from the VORTAC to a point 12 miles NW and within 2 miles either side of the Meridian ILS localizer S course extending from the 5-mile radius zone to the OM.

This amendment shall become effective 0001 e.s.t. June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–4118; Filed, May 6, 1960; 8:45 a.m.]

[Airspace Docket No. 59-LA-17]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Designation of Control Area Extension and Modification of Control Zone

On December 23, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 10458) stating that the Federal Aviation Agency was considering an amendment to Part 601 and §§ 601.1983 and 601.1984 which would designate a control area extension and modify the existing control zone at Klamath Falls, Oreg.

As stated in the notice, the proposed control area extension will include the airspace within a 40-mile radius of the Klamath Falls VORTAC and will provide protection for jet and conventional aircraft arriving and departing Kingsley Field, formerly Klamath Falls Municipal Airport, under instrument flight rule conditions. Furthermore, the present Klamath Falls control zone associated with Kingsley Field is designated within a 3-mile radius of the airport. This zone will be increased to a radius of 5 miles to provide additional protection for the increasing jet air traffic operations at Kingsley Field.

The Aircraft Owners and Pilots Association concurred in the modification of the Klamath Falls control zone. The AOPA, however, objected to the proposed control area extension stating that it did not understand the need for such a large area and suggested that a smaller control area extension having a 15-mile radius be designated instead. The 40-mile radius control area extension is required primarily for the control of Air Defense Command jet aircraft based at Kingsley Field. Departure procedures for these aircraft bisect the northeast, southwest, and northwest quadrants of the 40-mile circular area surrounding the Klamath Falls VORTAC, while approach and holding procedures occupy the southeast quadrant. The designation of a control area extension having only a 15-mile radius would restrict most all the jet procedures to the limited controlled airspace of the Federal airways directly over the Klamath Falls VORTAC. A more efficient utilization of airspace will result with the designation of the control area extension having a 40-mile radius, since this will permit the use of the off airways airspace for jet aircraft departure and arrival procedures. The aircraft will be able to utilize the airspace over the highly mountainous terrain northwest and southwest of Klamath Falls which is generally avoided by conventional aircraft.

One other comment was received from the Department of the Air Force which concurred in the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), Part 601 (24 F.R. 10530) and §§ 601.1983 (24 F.R. 10570) and 601.1984 (24 F.R. 10570) are amended as follows:

1. Section 601.1478 is added to read:

§ 601.1478 Control area extension (Klamath Falls, Oreg.).

The airspace within a 40-mile radius of the Klamath Falls, Oreg., VORTAC.

§ 601.1983 [Amendment]

2. In the text of § 601.1983 *Three-mile radius zones,* delete: "Klamath Falls, Oreg.: Klamath Falls Municipal Airport."

§ 601.1984 [Amendment]

3. In the text of § 601.1984 *Five-mile radius zones,* add: Klamath Falls, Oreg.: Kingsley Field (latitude 42°09'25" N., longitude 121°43'55" W.).

These amendments shall become effective 0001 e.s.t. June 30, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4119; Filed, May 6, 1960; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 55119]

PART 3—DOCUMENTATION OF VESSELS

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Trade Between United States Ports on the Great Lakes and Other Ports of the United States

Section 3.41, Customs Regulations, relating to the use of frontier enrollments and licenses, amended; footnote 34 thereto, relating to entry and clearance at Montreal, deleted; and § 4.83, relating to trade between United States ports on the Great Lakes and other ports, amended.

The Bureau of Customs has been advised through the Department of State of the receipt of information from the Canadian Government to the effect that a vessel proceeding from one United States port to another by way of the St. Lawrence River and the sea may proceed to its destination without entering or clearing at Montreal, or any other Canadian port, and without reporting to Canadian Customs at any port en route through the St. Lawrence Seaway system, provided the vessel does not stop at any Canadian port for the purpose of embarking or disembarking passengers, lading or unlading cargo, or for the purpose of obtaining ship's stores.

Accordingly, the following changes are made in the customs regulations:

1. Section 3.41(a) is amended to read:

(a) Except as stated in § 3.40(d), when a vessel under frontier enrollment and license is to proceed to sea, directly or by way of an intermediate port, the vessel shall be required to surrender the frontier document. It may be issued a register if bound on a foreign voyage partly by sea, unless it is a vessel owned by a corporation which is a citizen of the United States as defined in § 3.19(a)(4) (see §§ 3.2(e) and 3.10), or, if qualified, may be issued an enrollment and license when proceeding from one United States port to another by way of the St. Lawrence River and the sea without touching at any foreign port. A vessel under frontier enrollment and license may retain that document when proceeding by way of the Hudson River to any United States port without going to sea.

2. Footnote 34 appended to § 3.41, which states that vessels proceeding from one United States port to another by way of the St. Lawrence River and the sea are required by Canadian regulations to enter and clear at Montreal, is deleted.

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759, sec. 2, 3, 23 Stat. 118, as amended, 119, as amended, R.S. 4318, as amended, 72 Stat. 1736; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 46 U.S.C. 2, 3, 258, 883-1)

3. Section 4.83(a) is amended to read:

(a) If a vessel proceeding from or to a port of the United States on the Great Lakes to or from any other port of the United States via the St. Lawrence River (see § 3.41 of this chapter) is intended to touch at any foreign port and does so touch, it will be subject to the usual requirements for manifesting, clearing, report of arrival, entry, payment of fees for entry and clearance, and tonnage taxes.

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759, secs. 2, 3, 23 Stat. 118, as amended, 119 as amended, R.S. 4197, as amended, 4200, as amended, 32 Stat. 172, as amended, R.S. 4318, as amended; 5 U.S.C. 22, 19 U.S.C. 66, 1624, 46 U.S.C. 2, 3, 91, 92, 95, 258)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: May 2, 1960.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 60-4151; Filed, May 6, 1960; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

SUBSTANCES MIGRATING TO FOOD FROM COTTON AND COTTON FABRICS USED IN DRY FOOD PACKAGING

The Commissioner of Food and Drugs, pursuant to authority provided in the

Federal Food, Drug, and Cosmetic Act (sec. 6(c), Public Law 85-929; 72 Stat. 1788; 21 U.S.C., note under sec. 342) and delegated to him by the Secretary of Health, Education, and Welfare (23 F.R. 9500) hereby authorizes the use in foods of certain additives for which tolerances have not yet been established or petitions therefor denied. *It is ordered,* That the food additive regulations (25 F.R. 1727, 1772, 2203, 2395) be amended by inserting in § 121.87 the following new paragraph (e):

§ 121.87 Extension of effective date of statute for certain specified food additives as indirect additives to food.

On the basis of data supplied in accordance with § 121.85 and findings that no undue risk to the public health is involved and that conditions exist that make necessary the prescribing of an additional period of time for obtaining tolerances or denials of tolerances or for granting exemptions from tolerances, the following additives may be used in connection with the production, packaging, and storage of food products, under certain specified conditions, for a period of 1 year from March 6, 1960, or until regulations shall have been issued in accordance with section 409 of the act, whichever occurs first. The extensions are granted under the condition that a minimum quantity of the additive will be incorporated in the food, consistent with good manufacturing practice.

* * * * *

(e) *Substances migrating from cotton and cotton fabrics used in dry food packaging.* In addition to the requirements set forth in the introduction to this section, the following additives may be used in cotton fabrics used in dry food packaging under the condition that a minimum quantity of the additive from the fabrics will be incorporated in the food, consistent with good manufacturing practice. While preliminary data show that many of the substances included in the list may not migrate to foods, these are being included pending the completion of additional scientific work involving them.

Abietic acid.
Amyl acetate.
Borax.
Boric acid.
Butyl oleate.
Candelilla wax.
Cresylic acid.
Diethylene glycol esters of stearic acid, lauric acid, tallow, coconut oil.
Diethylene glycol ethyl ether.
Diethylene glycol monolaurate.
Ethyl esters of copolymers of polyacrylic acid and polymethylacrylic acid.
Ethylenediamine tetraacetate.
Ethylenediamine tetraacetic acid, sodium salt.
Ethylene glycol *N*-butyl ether.
Ethylene glycol ethyl ether.
2-Ethylhexanol.
Ethylene glycol *N*-hexyl ether.
Formaldehyde.
Glycerol esters of stearic acid, lauric acid, tallow, coconut oil.
Hexane-1,2-diol.
Isopropanol.
Methyl esters of copolymers of polyacrylic acid and polymethylacrylic acid.
Petroleum sulfonate (mahogany soap containing 50 percent mineral oil and 50 percent sulfonated petroleum oil).
Ortho-phenylphenol.
Pine oil.
Polyethylene.
Polyethoxylated alkyl phenols (polyoxyethylated alkyl phenols, prepared by ethylene oxide reaction on nonyl phenol containing up to 40 oxyethylene groups).
Polyethoxylated fatty acids (polyoxyethylated fatty acids, prepared by reacting ethylene oxide or polymers of ethylene oxides with oleic or coconut oil fatty acids, or tallow or coconut oil).
Polyethoxylated fatty alcohols (polyoxyethylated fatty alcohols, obtained by reaction of ethylene oxide with stearyl alcohol, oleyl alcohol, or cetyl alcohol).
Polyvinyl alcohol.
Propylene glycol esters of stearic acid, lauric acid, tallow, coconut oil.
Propyl oleate.
Soaps of tallow, stearic acid, oleic acid, tall oil fatty acids, and rosin.
Sodium dodecylbenzenesulfonate.
Sodium pentachlorophenate.
Stoddard solvent.
Sulfated castor oil, 75 percent.
Sulfated cetyl alcohol.
Sulfated corn oil.
Sulfated tallow.
Sulfated vegetable oil.
Sulfonated propyl, butyl, or isobutyl oleates, or mixtures of these.
Triethanolamine salt of dodecylbenzenesulfonate.
Urea-formaldehyde resins (prepared by reaction of varying amounts of urea with formaldehyde).
Wax, microcrystalline, and paraffin:
Type I: A congealing point of 160° F. maximum (ASTM D-938), an absorptivity at 290 mμ of 0.04 liter per gram centimeter maximum (ASTM E-131), an oil content of 1.5% maximum (ASTM D-721), and a Saybolt color of 20 minimum (ASTM D-156).
Type II: Absorptivity at 290 mμ of 1.0 maximum, an oil content of 5.0% maximum, and a color of 3.0 maximum (ASTM D-1500).
White mineral oil.

The original request to extend the effective date of the statute for food additives that may migrate from cotton fabrics used in dry food packaging included trade-named and other substances. These additives are not included in this section extending the effective date of the statute, pending the evaluation of additional data that will specifically identify the particular substance for which the extension is requested.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since extensions of time, under certain conditions, for the effective date of the food additives amendment to the Federal Food, Drug, and Cosmetic Act were contemplated by the statute as a relief of restrictions on the food-processing industry.

Effective date. This order shall be effective as of the date of signature.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply 72 Stat. 1088; 21 U.S.C., note under sec. 342)

Dated: April 27, 1960.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 60-4136; Filed, May 6, 1960; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN RESERVOIR AREAS

Oologah Reservoir Area, Verdigris River, Oklahoma

The Secretary of the Army having determined that the use of Oologah Reservoir Area, Verdigris River, Oklahoma, by the general public for boating, swimming, bathing, fishing and other recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoir for its primary purposes, hereby prescribes rules and regulations for its public use, pursuant to the provisions of section 209 of the Flood Control Act of 1954 (68 Stat. 1266), adding this reservoir area to those listed in § 311.1, as follows:

§ 311.1 Areas covered.

* * * * *

Oklahoma

* * * * *

Oologah Reservoir Area, Verdigris River.

[Regs., Apr. 5, 1960, ENGCR-O] (Sec. 209, 68 Stat. 1266; 16 U.S.C. 460d)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-4101; Filed, May 6, 1960; 8:45 a.m.]

Title 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 74, Amdt. 2]

PART 292—PROCEDURE TO BE FOLLOWED BY OPERATORS IN THE RENDITION TO THE MARITIME ADMINISTRATION OF ANNUAL AND FINAL ACCOUNTINGS UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

Applicability of Procedure

Part 292 is amended by adding the following section at the end thereof:

§ 292.9 Applicability of procedure.

(a) Effective as of January 1, 1958, the procedure prescribed in this part shall not be applicable to accounting periods commencing on or after said date but shall be superseded by the procedure contained in Part 286 of this chapter pertaining to such accounting periods.

(b) All 090 items applicable to accounting periods prior to January 1, 1958, recorded in a complete calendar

year subsequent to December 31, 1957 and prior to the filing of a final accounting shall be carried back to the applicable accounting period until such time as a final accounting for that accounting period shall have been submitted by the operator. Such final accounting shall be submitted by the operator within six months after the close of the calendar year in which all final operating-differential subsidy rates for such period have been incorporated in the operating-differential subsidy agreements. Thereafter, all 090 items subsequently recorded, not included in a final accounting as required above, shall be absorbed in the earnings of the year in which recorded.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: April 28, 1960.

By order of the Maritime Administrator.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4154; Filed, May 6, 1960; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2042]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

Protection of Bona Fide Purchasers of Leases From Cancellation

On page 10718 of the FEDERAL REGISTER of December 25, 1959, there was published a notice and text of a proposed amendment to § 191.15 of Title 43, Code of Federal Regulations. The purpose of the amendment is to incorporate in the regulations the provisions of Public Law 86-294, approved September 21, 1959, which provided for the protection and benefit of bona fide purchases of leases, or interest therein which may have been or are subject to cancellation or forfeiture for violation of the provisions of section 27 or any other provisions of the Mineral Leasing Act of 1920 (30 U.S.C. sec. 181, et seq.).

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment.

As a result of the comments received, the time limit for submission of proof of bona fide purchase has been extended from 30 to 60 days in § 191.15(a) and protection relating to notice of violation of the act by a predecessor in § 191.15(d) is changed by not limiting the regulation to his assignor. The amendment is hereby adopted with the changes described and is set forth below. Since no additional requirements are being made of the public the amendment shall become effective at the beginning of the calendar day on which it is published in the FEDERAL REGISTER.

(41 Stat. 437; 30 U.S.C. sec. 181, et seq.)

ELMER F. BENNETT,
Acting Secretary of the Interior.

MAY 2, 1960.

Part 191 of Title 43 Code of Federal Regulations is amended and supplemented by adding a new § 191.15 to read as follows:

§ 191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.

(a) The act of September 21, 1959 (73 Stat. 571; Public Law 86-294), amends section 27 of the Mineral Leasing Act and provides that the right of cancellation or forfeiture for violation of any of the provisions of the act shall not apply so as to adversely affect the title or interest of a bona fide purchaser of any lease, option for a lease, or interest in a lease acquired in conformity with the acreage limitations of the act from anyone whose holdings, or the holdings of a predecessor in title, including the original lessee, may have been cancelled or forfeited, or may be subject to cancellation or forfeiture for any such violation. The holder of a lease or of an interest therein whose lease or interest is or may be adversely affected by any cancellation or forfeiture action pursuant to any provision of the act shall be notified of the proposed action and advised that the protection and benefits of Public Law 86-294 may be obtained by submitting proof of bona fide purchase of the lease or interest therein within 60 days from the date of receipt of such notice.

(b) The act also provides that any party to any proceeding respecting a violation of any provision of the act has the right to be dismissed from such proceeding upon a showing that the lease interest involving him was acquired as a bona fide purchaser without having violated any provisions of the act. A party seeking such dismissal must affirmatively plead and prove that he acquired the lease interest as a bona fide purchaser without violating any provision of the act. Petitions or motions for dismissal shall be filed in duplicate in the office where the contest is pending and proceedings thereon will be under the jurisdiction of the Hearing Examiner who shall render decisions thereon in accordance with the rules of practice.

(c) As provided in the act, if during any such proceeding a party thereto files a waiver of his rights under the lease to drill or to assign his interest thereunder or if his rights are suspended by order of the Secretary pending a decision, the lease or interest of such party shall, if he is found in such proceedings not to be in violation of any provision of the act, be extended for a period of time equal to that between the date of filing of the waiver or the order of suspension, and the first day of the month following his dismissal from such proceedings, or the final decision, whichever is earlier. No additional rental shall be required for the extended period, if the lease had been maintained in good standing. Any party claiming a right to extension of a lease under this provision of law is required to file a request therefor in the land office prior to the expiration of its term.

(d) Any party claiming to be a bona fide purchaser under the act bears the burden of proof of such fact, and evidence offered in support thereof must be sufficient to show that the lease or interest was acquired in good faith without violating any provision of the act, for a valuable consideration, and without actual or constructive notice that the lease or interest therein had been obtained in violation of the act.

[F.R. Doc. 60-4139; Filed, May 6, 1960; 8:47 a.m.]

Proposed Rule Making

FEDERAL AVIATION AGENCY

[14 CFR Ch. I]

[Reg. Docket No. 376; Draft Release 60-9]

[Special Civil Air Reg. No. SR424-C]

POSITIVE AIR TRAFFIC CONTROL AREAS AND ROUTES

Implementation of Positive Control on an Area Basis and Revision of SR424B

Pursuant to the authority delegated to me by the Administrator (§ 405.27 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to promulgate a Special Civil Air Regulation (SR424C) to provide for the implementation of positive control on an area basis and to amend and incorporate the provisions of SR424B into this Special Civil Air Regulation.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before June 24, 1960, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons when the prescribed date for the return of comments has expired. Because of the large number of comments anticipated in reply to this notice, we will be unable to acknowledge receipt of each reply.

In 1958, the Administrator designated certain airways between 17,000 and 22,000 feet mean sea level (m.s.l.) as positive control routes under the provisions of Special Civil Air Regulation 424. Within this airspace, all aircraft were provided positive separation regardless of weather conditions. This action also provided segregation between en route airway flights and diversified local flights and provided positive separation between en route flights.

Inauguration of civil air carrier turbojet service late in 1958, prompted the implementation of a program of radar flight following and traffic advisory service utilizing both FAA and United States Air Force long range radar facilities. This service did not provide positive control; however, it was a definite evolutionary step in that direction.

Both the positive control routes and the civil jet radar flight following and advisory programs were aimed primarily at point-to-point en route operation and represented the maximum actions which could be accomplished within the existing air traffic control capabilities and state of the art. Positive separation for both en route and diversified local operations on an area basis requires an expansion of the capacity of the air traffic control system. This expansion can be achieved through the maximum use of radar which permits the utilization of less restrictive separation standards and thus increases traffic control capacity.

These radar and associated facilities will soon be available in the Chicago and Indianapolis Air Route Traffic Control Center Areas.

Accordingly, a plan to implement and evaluate positive control on an area basis has been developed by the Agency in cooperation with users of the airspace involved.

The area selected for the initial implementation and evaluation of this concept is within the radar coverage of the Chicago, Illinois; Indianapolis, Indiana; and London, Ohio, long range radar facilities between 24,000 feet (m.s.l.) and flight level 350, inclusive. The Federal Aviation Agency will propose this area for designation as a positive control area in the Regulations of the Administrator in a separate notice of proposed rule making action. This area presents a representative mixture of all types of operations and an evaluation of positive control in this area will provide a sound basis for expansion of this concept.

Two concepts will be employed within the airspace to be designated as positive control area. First, those aircraft whose flight track generally conforms to the point-to-point concept of navigation and maintenance of a constant flight level, will be provided individual separation from all other aircraft by the air traffic controller. Second, aircraft that conduct flight maneuvers (e.g., acrobatics, practice gunnery, test flights, etc.) which, by their nature cannot be individually separated by the air traffic controller, will be provided airspace reservations within positive control areas to conduct these operations. Whenever possible, segregation will be accomplished through application of "on the spot" reserved airspace procedures on a time basis rather than application of restricted airspace.

Flights conducted in accordance with such procedures will, at times, require a deviation from the provisions of this regulation to perform their mission. Therefore, a provision is included in this regulation whereby air traffic control may authorize such deviation in accordance with the terms and conditions of a special authorization issued to the user Agency concerned.

Every effort has been made to develop the procedures required for a program of this magnitude. However, since this program involves the control of many diversified aircraft operations not previously subject to air traffic control, the Federal Aviation Agency plans to conduct a thorough and continuing evaluation of the program. Modification of procedures and operations will be accomplished as required in close coordination with all users to insure an accurate and practical program for expansion of this concept.

Although the initial implementation of this program is anticipated in an area approximately within a 125 mile radius of the Chicago, Illinois; Indianapolis, Indiana; and London, Ohio, long range radar facilities, on or about October 15, 1960, a limited implementation of the program in a smaller area prior to this date will be proposed.

The Department of the Air Force has requested that the presently designated restricted area, R-109, be enlarged to include airspace to the east of R-109 between 24,000 feet (m.s.l.) and flight level 600, inclusive. However, designation of this additional "shelf" airspace as a restricted area would impose an additional burden on other airspace users.

Inasmuch as this area is a coincident portion of that airspace in which the proposed positive control area concept is to be applied; and since this concept would satisfy the test flight requirements of the Wright Air Development Center and at the same time, permit maximum use by other aircraft, it is felt the public interest could best be served by implementing positive control within this area pending the capability to initiate positive control within the entire proposed Chicago, Indianapolis, and London area.

Accordingly, this proposal will permit the implementation of positive control within the R-109 "shelf" area. The Federal Aviation Agency will propose this area for designation as positive control area in the regulations of the Administrator in a separate notice of proposed rule making action.

In order to achieve a positive control capability, there are three basic requirements which must be met by aircraft desiring to operate in a positive control area:

1. Due to the limitations of primary radar particularly in regard to resolution of target information from certain aircraft types, the radar beacon must be used. Therefore, all aircraft must be equipped with a functioning radar beacon transponder.

2. A radar environment of air traffic control cannot be realized without instantaneous and discrete comunication between the pilot and controller. Therefore, all participating aircraft must have communications equipment capable of meeting this requirement.

3. Operations conducted under visual flight rules will be prohibited from this airspace. The controller must have a flexibility of operation, irrespective of weather conditions, to achieve the volume of operations required. Therefore, all aircraft and pilots operating in the area must be capable of and certificated

for flight under the instrument flight rules.

An additional purpose of this proposal is to set forth in a single document the basic regulations which will be applicable to all airspace areas and routes in which positive control will be exercised. Accordingly, this proposal has incorporated the provisions of SR424B which provides for operating rules on "positive control route segments" designated in Part 601 of the Administrator's regulations. Therefore, SR424B will be rescinded and the provisions thereof are incorporated in paragraph 2 of this proposal.

Portions of the "positive control route segments" will underlie the proposed positive control areas. This would create a tunnel effect wherein non-positive controlled airspace (22,000–24,000 feet m.s.l.) would exist between positive controlled airspace. It is believed that the existence of such airspace would be undesirable for two reasons.

(i) Uncontrolled traffic would be intermingling with aircraft transiting from one positive control environment to the other.

(ii) There may be a tendency for nonparticipating pilots to operate in the tunnel airspace in large numbers, thereby creating a potentially hazardous traffic environment.

In view of these factors, and in consideration of this proposal, positive control route segments, which underlie positive control areas would be designated to include the altitudes from 17,000 to 24,000 feet (m.s.l.).

Designation of the positive control areas or revisions to the positive control routes wherein the provisions of this special regulation apply shall be in accordance with the normal rule making notice and public procedure.

In consideration of the foregoing, it is proposed to promulgate the following Special Civil Air Regulations:

1. Except as otherwise provided in paragraph (d), the special air traffic rules prescribed in this section shall be applicable to any operation of an aircraft in that portion of airspace, in the continental control area, which has been designated by the Administrator as a "positive control area" in Part 601 of the Administrator's Regulations (14 CFR Part 601):

(a) No person shall operate an aircraft within a positive control area without prior approval of air traffic control.

(b) All VFR flight activities, including VFR on top, irrespective of weather conditions, are prohibited from operating in this designated airspace.

(c) All aircraft operated within positive control areas shall:

(1) Have the instruments and equipment required for IFR operations and pilots of such aircraft shall be rated for instrument flight.

(2) Be equipped with a functioning radar beacon transponder which shall be operated to reply on such mode and/or code as may be specified by air traffic control for the area in which flight is conducted.

(3) Be equipped with radio equipment capable of providing direct pilot-controller communications on the frequencies specified by air traffic control for the positive control area in which flight is conducted.

(d) Air traffic control may authorize a deviation from the requirements of paragraphs (b) and (c) of this section, for operations conducted in accordance with the terms and conditions of a special authorization.

2. The special air traffic rules prescribed in the following paragraphs of this section shall be applicable to any operation of an aircraft in that portion of a federal airway between the altitudes of 17,000 and 22,000 feet (m.s.l.) or 17,000 to 24,000 feet (m.s.l.) for the portion of any such airway underlying a designated positive control area, which has been designated by the Administrator as a "positive control route segment" in Part 601 of the Administrator's Regulations (14 CFR Part 601).

(a) No person shall operate an aircraft within such designated airspace without prior approval of air traffic control.

(b) All VFR flight activities, including VFR on top, irrespective of weather conditions, are prohibited from operating in this designated airspace.

(c) All aircraft operated within this designated airspace shall have the instruments and equipment currently required for IFR operations and all pilots shall be rated for instrument flight.

SR424B is hereby rescinded on the effective date of this regulation.

This regulation is proposed under the authority of sections 313(a) and 307(c) of the Federal Aviation Act of 1958 (72 Stat. 752, 749; 49 U.S.C. 1354, 1348).

Issued in Washington, D.C., on May 3, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4155; Filed, May 6, 1960; 8:48 a.m.]

[14 CFR Part 60]

[Reg. Docket No. 375; Draft Release No. 60-8]

AIR TRAFFIC RULES

Definition of Controlled Airspace; Rescission of Civil Air Regulations Amendments 60–14 and 60–14A

Pursuant to the authority delegated to me by the Administrator (§ 405.27 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to rescind Civil Air Regulations Amendments No. 60–14 and 60–14A (24 F.R. 6, 24 F.R. 11078) and to adopt a new amendment to Part 60 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. All communications received by June 21, 1960, will be considered by the Administrator before taking action upon this proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed date for the return of comments has expired. Because of the large number of comments which we anticipate receiving in response to this draft release, we will be unable to acknowledge receipt of each reply. However, you may be assured that all comments will be given careful consideration.

Part 60 of the Civil Air Regulations comprises the air traffic rules and contains certain definitions pertinent thereto. Section 60.17(b) requires, in effect, that an altitude providing at least 1,000 feet vertical separation above the highest obstacle within a horizontal radius of 2,000 feet of the flight path of the aircraft must be maintained during flight over congested areas. Section 60.30 prescribes the weather minimums for VFR flight. Section 60.60 defines, among other things, the subdivisions of controlled airspace. The term "control area" is defined, in part, as "* * * extending upward from 700 feet above the surface * * *"

Civil Air Regulations Amendment 60–14 was adopted by the Civil Aeronautics Board on December 29, 1958, and was designed to provide additional uncontrolled airspace for the conduct of VFR flight operations. The amendment recognized the requirement to establish a more reasonable balance between the airspace provided to the VFR and to the IFR user. It provided that "floors" of controlled airspace be established 1,500 feet above terrain, or higher if deemed appropriate by the Administrator. The rule provided for "terminal control areas" designed to provide controlled airspace upward from 700 feet above terrain to accommodate instrument flight operations maneuvering in the vicinity of airports. The amendment also provided that an upper limit of controlled airspace might be established in order to provide uncontrolled airspace above certain airway segments. Realizing the magnitude of the task involved in revising the entire national airspace structure, the Board designated January 1, 1960, as the mandatory effective date of the amendment.

The Federal Aviation Agency, concerned with the many technical problems apparent in the implementation task, was obliged to conduct a comprehensive analysis to determine the effect of the airspace changes upon the safety of flight and upon the air traffic control system. The study was extremely detailed and time consuming, and it became evident that the Agency could not complete the analysis and implement the amendment within the prescribed time. Therefore, the Federal Aviation Agency gave public notice in Draft Release No. 59–16, dated October 28, 1959, that it proposed to extend the mandatory effective date of the amendment. The additional time was required to permit the Agency to complete the analysis and to observe the requirements of the Administrative Procedure Act in implementing actions. Civil Air Regulations Amendment 60–14A, adopted December 31, 1959, extended the mandatory effective date of Amendment 60–14 until July 1, 1960.

The analysis has now been completed. The findings indicated that modification of the existing airspace structure beyond that envisioned by Amendment 60–14 is required to more fully observe the responsibility of the Federal Aviation Agency to the VFR pilot. Specifically, it was found that additional uncontrolled

airspace should be provided to permit the conduct of VFR flight within obstruction-free airspace and to permit the conduct of such flight in accordance with the minimum altitude above congested area requirements of § 60.17(b). The policy of providing such obstruction-free airspace to insure the safe use of the navigable airspace by the VFR pilot shall be a major factor in the Agency's considerations of future airspace proposals regarding the erection of high obstructions.

The analysis also indicated that the title "terminal control area" as used in Amendment 60–14 tended to create ambiguity because of the limitation of the word "terminal." It is proposed therefore to retitle the airspace used for transition between the control zone and control area as "transition area."

The transition area will be used to provide controlled airspace for transition between control zones and the control areas (airways) or between control areas and uncontrolled airports. Transition areas will also be used to provide controlled airspace for use during transition between different route structures or segments. For example, in many cases the airways of the high altitude route structure do not directly overlie airways of the low altitude route structure; transition areas are proposed to provide the necessary controlled airspace for transition between the two structures. Transition areas, as proposed, will have lower limitations as designated, but will, in no case, provide a floor of controlled airspace less than 1,200 feet above the terrain. Transition areas shall extend upwards to the base of overlying controlled airspace.

The floor of the transition area is proposed to be 1,200 feet above the surface, or higher if so designated. The lowest usable IFR altitude within transition areas that may be assigned by air traffic control will be derived from obstruction clearance criteria. In addition, it will be established at least 300 feet above the floor of the transition area. This 300-foot buffer, segregating IFR and VFR operations, is considered necessary for the sake of safety and is consistent with present requirements.

Under the provisions of this proposal, the Federal Aviation Agency will, at the local level, carefully consider the requirements and general traffic flow associated with uncontrolled airports located in the vicinity of control zones. The typical VFR routes to and from these airports will be determined. Uncontrolled airspace will be provided for VFR access to many, although probably not all, of these airports, even to the extent of providing uncontrolled "VFR corridors." Within such corridors and other airspace normally used for access, the floor of transition areas will be established at a level which will provide at least 1,000 feet vertical separation above manmade obstructions in addition to the requirement to provide 1,200 feet above terrain. This does not mean that the floor of controlled airspace will be established 1,000 feet above obstructions in all cases, but rather that obstruction clearance will be provided if a review of the VFR operations indicates that VFR flights typically operate in proximity to such obstructions. It becomes immediately apparent that such determinations cannot be made without a thorough and detailed knowledge of the flight "habits" of both the IFR and the VFR pilot. It is also obvious that such determinations cannot be made arbitrarily, but will require the cooperative efforts of local representatives of user agencies, as well as of the Federal Aviation Agency, if this proposed amendment is to attain its goal.

Under this proposal, the lateral dimensions of a control zone will be dependent upon the amount of controlled airspace required as determined by application of aircraft climb and approach criteria. As distinguished from the five-mile radius contained in Amendment 60–14, the area of a control zone will normally encompass an area of nine miles in radius, with extensions if required for IFR climb and descent between the airport and the transition area.

As previously stated, transition areas are proposed to be established with a floor of at least 1,200 feet above terrain, with special consideration given to the obstruction clearance factor within those areas containing normal flyways for VFR flight operations. For maximum flexibility, the transition area floor may be determined and established in one of two ways. In one method the floor of the transition area, as was provided by Amendment 60–14, may be based solely upon a fixed height and following the changes in the elevation of the terrain. In the relatively flat areas, it may prove advantageous to use an alternate method, not provided in Amendment 60–14, by designating the floor of transition areas at a fixed height common to the transition area which would not follow the changes in terrain. The decision as to which method is more appropriate will depend, of course, upon local terrain.

The floors of control areas are proposed to be designated, by appropriate airspace actions, at a level 500 feet or more above obstructions and at least 500 feet below the lowest altitude normally assigned by air traffic control for IFR flights. Such altitudes will be determined primarily from past altitude usage. However, in all cases this altitude will be a cardinal altitude (odd or even thousand foot levels) at or above the Minimum En Route Altitude. Control areas will normally extend upwards to the base of the continental control area. However, as in Amendment 60–14, if there is no requirement for controlled airspace to this level, an upper limitation may be established at a specified altitude. In many cases such action can meet the requirements of low-altitude, short-haul IFR operations, while still freeing uncontrolled airspace above the airway for VFR operations.

The definition of "Continental Control Area" is proposed to be modified to exclude the airspace over the State of Alaska.

It is proposed that December 31, 1961, be established as the target date for the completion of airspace actions associated with this amendment. However, the language of the amendment also permits partial implementation of its provisions by appropriate airspace action at any time subsequent to the date of its adoption and publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Administrator will in a separate action rescind Amendments 60–14 and 60–14A (24 F.R. 6, 24 F.R. 11078) and it is hereby proposed to amend Part 60 of the Civil Air Regulations (14 CFR 60) as follows:

1. By amending § 60.30(a)(2) by changing the phrase "700 feet" in the two places it occurs to read "1,200 feet."

2. By amending § 60.30(b) by redesignating subparagraph (3) as subparagraph (4) and by adding a new subparagraph (3) to read as follows:

(3) *Transition area.* When the flight visibility is less than three miles, no person shall operate an aircraft VFR within a transition area.

3. By amending § 60.30(c) by changing the phrase "700 feet" in the second sentence to read "1,200 feet."

4. By amending the "Basic VFR Minimum" chart contained in this part by adding the words "and transition area" following the words "Control area" in the first column; by changing the headings "700 feet or below" and "Above 700 feet" in the "Distance from clouds" column to read "1,200 feet or below" and "Above 1,200 feet," respectively; by changing the phrase "700 feet" in footnote 2 to read "1,200 feet."

5. By amending the definitions contained in § 60.60 as follows:

a. By adding to the definition of continental control area a new sentence to read, "The continental control area shall not include the airspace over the State of Alaska."

b. By amending the definition of "Control Area" as it appears in that section to read as follows:

Control area. An airspace of defined dimensions within which air traffic control is exercised, and designated by the Administrator for the purpose of providing controlled airspace to encompass the flight paths of en route aircraft. Control areas shall extend upwards from a base at 700 feet above the surface until such base is otherwise designated. Unless otherwise limited, a control area shall extend upwards to the base of the continental control area.

c. By amending the definition of "Controlled Airspace" as it appears in that section by inserting the term "Transition area" immediately following the term "Control zone;" and by adding a note at the end of the definition to read as follows:

NOTE: The dimensions of controlled airspace are designated by the Administrator and published in Part 601 of this Title (14 CFR Part 601). These designations also may be found on charts published by the United States Coast and Geodetic Survey and the Aeronautical Chart and Information Center.

d. By adding in proper alphabetical order a new definition "Transition Area" to read as follows:

Transition area. An airspace of defined dimensions within which air traffic control is exercised, and designated by the Administrator for the purpose of providing controlled airspace to encompass the flight paths of aircraft in transit between control zones and control areas, or between a control area and an uncontrolled airport, or between different airway route structures or segments. Transition areas shall extend upwards from a base at 700 feet above the surface until such base is otherwise designated at 1,200 feet or more above the surface. Unless otherwise limited, a transition area shall extend upwards to the base of the overlying controlled airspace.

This amendment is proposed under the authority of sections 307(a), and 307(c) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 752, 749, 49 U.S.C., 1354, 1348.

Issued in Washington, D.C., on May 3, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4146; Filed, May 6, 1960; 8:48 a.m.]

[14 CFR Part 507]

[Reg. Docket No. 374]

AIRWORTHINESS DIRECTIVES

Convair

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring visual inspection for cracks in the main landing gear cylinder rod assembly on Convair 340 and 440 aircraft. If cracks are found, replacement or rework shall be accomplished.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before June 8, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a), (14 CFR Part 507), by adding the following airworthiness directive:

CONVAIR. Applies to all Model 340/440 aircraft.

Compliance required as indicated.

Fatigue failures have occurred in the threaded area (piston end) of the main landing gear actuating cylinder rod assembly, P/N 340-5150107. In at least two instances, complete failure of the rod end occurred allowing the main gear to free fall to the down position causing excessive loads to be placed on the airframe. As a result, the following must be accompanied on rod assemblies with more than 5,000 hours time in service.

Within the next 425 hours time in service, and every 425 hours thereafter, conduct a visual inspection using at least a 10-power magnifying glass or equivalent for cracks in the threaded portion of the main landing gear actuating cylinder rod assembly, P/N 340-5150107. If cracks are found, the cylinder rod assembly must be replaced or reworked in accordance with Convair Service Letter 15-4-340-12-440-11 or equivalent prior to further flight. Reworked salvaged parts or reworked sound parts are not subject to the special inspections.

Issued in Washington, D.C., on May 3, 1960.

S. A. KEMP,
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-4122; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-LA-11]

CONTROL AREAS

Designation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a control area extension southwest of the Blythe, Calif., VOR to protect aircraft executing standard instrument approach procedure on the 227° True radial of the Blythe VOR.

If this action is taken, the Blythe, Calif., control area extension would be designated to include the airspace bounded by the arc of a circle within a 17-mile radius of the Blythe VOR, beginning at the western edge of VOR Federal airway No. 135 and extending clockwise to the southern edge of VOR Federal airway No. 64.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4123; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-116]

CONTROL AREAS

Modification and Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1454 of the regulations of the Administrator, the substance of which is stated below.

The Miami, Fla., control area extension is presently designated to include the airspace bounded on the north by VOR Federal airway No. 293, on the east by VOR Federal airway No. 3 and on the south and west by VOR Federal airway No. 51 and Blue Federal airway No. 19. The West Palm Beach, Fla., control area extension is presently designated to include the airspace northwest of West Palm Beach bounded on the south by VOR Federal airway No. 293, on the east by VOR Federal airway No. 3, and on the west and northwest by Blue Federal airway No. 19 and VOR Federal airway No. 51. The Federal Aviation Agency has under consideration modification of the Miami control area extension by enlarging it to encompass the West Palm Beach control area extension and to include six small triangular segments of uncontrolled airspace between airways northwest of Miami.

The additional control areas are within the surveillance coverage of air traffic control radar and the designation of these areas as controlled airspace would assist air traffic management in expediting the movement of aircraft into and out of the Miami terminal area.

If this action is taken, the Miami, Fla., control area extension would be redesignated as the area bounded on the west and northwest by VOR Federal airway

No. 225, on the east by VOR Federal airway No. 3, on the south by VOR Federal airway No. 51 and on the southwest by a line from a point on the north edge of Victor 51 at longitude 80°48'30" W., to a point on the east edge of Victor 225 at latitude 26°05'45" N. The West Palm Beach, Fla., control area extension (§ 601.1022) would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C. on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4124; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-WA-42]

CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 601.6105 and 601.6135 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 105 extends, in part, from the Hidden Hills, Calif., Intersection (intersection of the Las Vegas, Nev., VOR 266° and the Beatty, Nev., VOR 142° True radials) to the Beatty VOR. A segment of VOR Federal airway No. 135 coincides with this segment of Victor 105. The control areas associated with these segments of Victor 105/135 are presently designated to extend upward from 700 feet above the surface to but not including 24,000 feet MSL.

To implement, in part, Civil Air Regulation, Part 60, Air Traffic Rules, Amendment 60-14 (24 F.R. 6, 11078), the Federal Aviation Agency is considering redesignating the control areas associated with these segments of Victor 105/135 to extend upward from 10,500 feet MSL, to but not including 24,000 feet MSL. This would make additional airspace available underneath these airways for conducting flight outside of control area, and would not adversely affect the management of air traffic along these airways. This modification of control areas would not affect the designation of the associated airways. Accordingly, no amendment relating to such airways would be necessary.

If this action is taken, the control areas associated with the segment of VOR Federal airways No. 105 and 135 between the Hidden Hills, Calif., Intersection and the Beatty, Calif., VOR, would be designated to extend upward from 10,500 feet MSL (approximately 4,100 feet above highest terrain), to but not including 24,000 feet MSL.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4125; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-FW-32]

CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1260 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the modification of the Altus, Okla., control area extension. The present Altus control area extension includes the airspace bounded on the south by VOR Federal airway No. 102, on the west by VOR Federal airways No. 14 and 114, on the northwest by VOR Federal airway No. 140, and a line from the Sayre, Okla., VOR along longitude 99°38'00" W., to VOR Federal airway No. 17, on the northeast by Victor 17 and on the southeast by VOR Federal airway No. 77. It is proposed to include in the Altus control area extension the airspace northwest of the present area bounded on the southwest by Victor 140 north alternate, on the northwest by VOR Federal airway No. 12, and on the east by a line from Sayre VOR along longitude 99°38'00" W., to Victor 17 and on the north by Victor 17. This will provide protection for jet aircraft arriving and departing Clinton Sherman AFB, Okla., during instrument flight rule conditions. Concurrently with this action, it is proposed to revoke the Lawton, Okla., Control Area extension (§ 601.1302) since the Altus Control Area extension would include the airspace presently designated as the Lawton Control Area extension.

If this action is taken, the Altus control area extension would be designated to include the airspace bounded on the northeast by VOR Federal airway No. 17; on the southeast by VOR Federal airway No. 77; on the south by VOR Federal airway No. 102; on the west by VOR Federal airway No. 14 from Lubbock, Tex., to Childress, Tex., and VOR Federal airway No. 114, from Childress to Amarillo, Tex.; on the northwest by VOR Federal airway No. 12; excluding the portion which coincides with the Fort Sill Restricted Area (R-208). Concurrently, the Lawton, Okla., control area extension would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal

Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4126; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-LA-25]

CONTROL ZONES

Modification of Proposal; Supplemental Notice

In a notice of proposed rule making published in the FEDERAL REGISTER on March 26, 1960 (25 F.R. 2591), as Airspace Docket No. 59-LA-25, it was stated that the Federal Aviation Agency proposed to redesignate the Hobbs, N. Mex., control zone within a 5-mile radius of the Lea County Airport, Hobbs, N. Mex. (latitude 32°41'19" N., longitude 103°13'01' W.); within 2 miles either side of the south course of the Hobbs radio range extending from the 5-mile radius zone to the radio range and within 2 miles either side of the 213° True radial of the Hobbs VOR extending from the 5-mile radius zone to the VOR. Notice is hereby given that the original proposal is amended in that the control zone extension to the northeast based upon Hobbs VOR would be designated within 2 miles either side of the 225° True radial extending from the 5-mile radius zone to the Hobbs VOR. This modification would center the control zone extension on the 225° radial of the Hobbs VOR upon which the prescribed VOR instrument approach procedure is based.

In order to provide interested persons time to adequately evaluate this proposal, as modified herein, and an opportunity to submit additional written data, views or arguments, the date for filing such material will be extended to May 20, 1960.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), I hereby give notice that the time within which comments will be received for consideration on Airspace Docket No. 59-LA-25 is extended to May 20, 1960.

Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif.

Sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4127; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-FW-7]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2248 of the regulations of the Administrator, the substance of which is stated below.

The San Antonio, Tex., control zone is presently designated within a 5-mile radius of the San Antonio Airport and within 2 miles either side of the north course of the San Antonio radio range to the Cibolo Creek, Tex., fan marker. The Federal Aviation Agency is considering modifying the control zone by revoking the north control zone extension based on the San Antonio radio range and the Cibolo Creek fan marker and by designating extensions to the north and northwest. The San Antonio radio range is scheduled for conversion to a radio beacon in the near future and the presently prescribed instrument approach procedures based on the radio range are being cancelled. Therefore, this north extension based on the radio range will no longer be required for the protection of aircraft and it appears that the revocation thereof would be in the public interest. It is proposed to designate extensions to the north and northwest based on the San Antonio VOR and the site of the planned San Antonio International Airport ILS outer marker to provide protection for aircraft conducting VOR and ILS instrument approaches to the San Antonio International Airport.

If these actions are taken, the San Antonio, Tex., control zone would be redesignated within a 5-mile radius of the San Antonio International Airport, latitude 29°31'50" N., longitude 98°28'12" W., and within 2 miles either side of the San Antonio VOR 184° True radial extending from the 5-mile radius zone to the VOR, and within 2 miles either side of the extended centerline of runway 12/30 extending from the 5-mile radius zone to a point at latitude 29°36'26" N., longitude 98°34'14" W. (site of the San Antonio International Airport ILS outer marker).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4128; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-AN-13]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1984 of the regulations of the Administrator, the substance of which is stated below.

The Nome, Alaska, control zone is presently designated within a 5-mile radius of the Nome Federal Aviation Agency Airport. The Federal Aviation Agency has under consideration the modification of this control zone by designating a control zone extension within two miles either side of the east course of the Nome radio range extending from the 5-mile radius zone to 12 miles east of the radio range. This modification would provide protection for aircraft conducting prescribed instrument approaches to the Nome Federal Aviation Agency Airport during instrument flight rule conditions.

If this action is taken, the Nome, Alaska, control zone would be designated within a 5-mile radius of the Nome Federal Aviation Agency Airport (latitude

64°30'42" N., longitude 165°26'28" W.), and within 2 miles either side of the east course of the Nome radio range extending from the 5-mile radius zone to 12 miles east of the radio range. The Nome, Alaska, control zone would then be designated in a new section in Part 601, and deleted from § 601.1984, *Five mile radius zones.*

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4129; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-AN-8]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering amendments to Part 601 and § 601.1984 of the regulations of the Administrator, the substance of which is stated below.

The McGrath, Alaska, control zone is presently designated within a 5-mile radius of the McGrath Airport. The Federal Aviation Agency is considering designating a control zone extension southeast of the McGrath Airport within 2 miles either side of the southeast course of the McGrath radio range from the 5-mile radius zone to a point 12 miles southeast of the radio range station. This modification would provide protection for aircraft conducting instrument approaches to the airport during IFR conditions.

If this action is taken, the McGrath, Alaska, control zone would be designated within a 5-mile radius of the McGrath Airport (latitude 62°57'05" N., longitude 155°36'10" W.), and within 2 miles either side of the southeast course of the McGrath radio range extending from the 5-mile radius zone to a point 12 miles southeast of the radio range station. The McGrath, Alaska, control zone would then be designated in a new section in Part 601, and deleted from § 601.1984, *Five mile radius zones.*

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4130; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-AN-11]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1984 of the regulations of the Administrator, the substance of which is stated below.

The present Minchumina, Alaska, control zone is designated within a 5-mile radius of the Minchumina Airport. The Federal Aviation Agency has under consideration the modification of this control zone by designating a control zone extension, within two miles either side of the southeast course of the Minchumina radio range extending from the 5-mile radius zone to a point 12 miles southeast of the radio range. This modification would provide protection for aircraft conducting prescribed instrument approaches to the Minchumina Airport.

If this action is taken, the Minchumina, Alaska, control zone would be designated within a 5-mile radius of the Minchumina Airport (latitude 63°52'55" N., longitude 152°18'39" W.) and within 2 miles either side of the southeast course of the Minchumina radio range extending from the 5-mile radius zone to a point 12 miles southeast of the radio range. The Minchumina, Alaska, control zone would then be designated in a new section in Part 601, and deleted from § 601.1984, *Five mile radius zones.*

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4131; Filed, May 6, 1960; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 60-KC-23]

CONTROL ZONES AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 601.1429 and 601.2408 of the regulations of the Administrator, the substance of which is stated below.

The Camp Douglas, Wis., control zone and control area extension are presently designated during the period beginning at 0001 c.s.t., May 30 to 0001 c.s.t., September 6, 1959, and annually thereafter. Air National Guard units conduct field training at Volk Field, Camp Douglas during the months of May through September, annually. The field training schedules generally begin and end on a Saturday, which results in a different calendar beginning and ending date each year. To provide for the effective period of the Camp Douglas control zone and control area extension to coincide with the annual schedule of activation and deactivation of the Air Base, which schedule changes from year to year depending on the requirements of the Air National Guard training program, the Federal Aviation Agency is considering modifying the Camp Douglas control zone and control area extension by redesignating them to be effective annually during May through September with specific effective dates for each annual period to be published in advance in a Notice to Airmen. The dimensions of the control zone and control area extension would remain as presently described.

If this action is taken, the Camp Douglas, Wis., control zone and control area extension would be redesignated to be effective during the period, May through September, annually, with specific dates on which the designation begins and ends for each annual period to be established in advance by a Notice to Airmen.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on May 2, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-4132; Filed, May 6, 1960; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 922]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Notice of Proposed Rule Making With Respect to Approval of Expenses and Fixing of Rate of Assessment for 1959-60 Fiscal Year

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, originally effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof: (1) that the Secretary of Agriculture find that expenses not to exceed $175,000 will be necessarily incurred during the fiscal year November 1, 1959, through October 31, 1960, for the maintenance and functioning of the committee established under the aforesaid marketing agreement and order, as amended, and (2) that the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles oranges shall pay during the fiscal year in accordance with the aforesaid marketing agreement and order, as amended, the rate of assessment of nine mills ($0.009) per carton of oranges handled by such handler as the first handled thereof during such fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

As used herein, "handle," "handler," "oranges," "fiscal year," and "carton" shall have the same meaning as is given to each such term in said marketing agreement and order, as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 4, 1960.

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-4160; Filed, May 6, 1960; 8:49 a.m.]

[7 CFR Part 968]

[Docket No. AO-173-A11]

MILK IN WICHITA, KANSAS, MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Wichita, Kansas, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Wichita, Kansas, on October 6, 1959, pursuant to notice thereof which was issued September 24, 1959 (24 F.R. 7876).

The material issues on the record of the hearing relate to:

1. Need for emergency suspension of a portion of the supply-demand adjustment to Class I price;

2. Revision of the supply-demand adjustment to the Class I price;

3. Cooperative standby plant definition;

4. Standards for qualifying a distributing plant as a pool plant;

5. Revising the method of accounting for the skim milk equivalent of dried or concentrated products;

6. Revision of the Class II (cottage cheese) definition;

7. Inventory accounting;

8. Provisions with respect to unpriced milk; and

9. Administrative provisions.

A proposal to review the level of the Class II (cottage cheese) price was not supported at the hearing and no further reference to it is made herein.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Suspension action.* In a decision signed October 22, 1959, it was determined that conditions were not so acute as to require the requested suspension of § 968.51(a)(3)(ii) pending the complete revision of the supply-demand adjustment to the Class I price. The suspension request was, therefore, denied.

SUPPLY-DEMAND FINDINGS—WICHITA

2. *Supply-demand adjustment.* Based on evidence of record presented at a hearing held October 6, 1959, the following action should be taken with respect to the supply-demand adjustment to the Class I price:

(1) The seasonality of the norms should be revised.

(2) The present supply-demand limits should be replaced by an upper and lower limit based on the Greater Kansas City Class I price.

(3) The third cumulative step of the rate of adjustment, suspended September 1, 1959, should be reinstated.

(4) The rate of adjustment should continue to be one cent per point of net deviation.

(5) The annual average reserve supply on which the norms are based should continue to be 135 percent of Class I sales.

(6) A ten-point path of zero adjustment should continue to be provided between the maximum and minimum standard utilization percentages in each month.

Seasonality of the standard utilization percentages should be revised to better accommodate changes in the seasonality of production which have occurred in recent years. The seasonal pattern of the norms proposed by the major cooperative serving the market appears to appropriately reflect the recent experience of the market and should therefore be adopted. The proposed standard utilization percentages were developed by graphic observation of the distribution of actual utilization percentages during the period January–February 1954 through July–August 1959. Adoption of the proposed seasonal pattern will provide less minus supply-demand adjustment during the fall months of September, October, November and December. A table comparing the present norms with those recommended herein is as follows:

Delivery period for which price applies	Delivery period used in computation	Recommended percentages		Present order percentages	
		Minimum	Maximum	Minimum	Maximum
January	October–November	125	135	126	136
February	November–December	124	134	130	140
March	December–January	125	135	128	138
April	January–February	125	135	126	136
May	February–March	132	142	130	140
June	March–April	136	146	135	145
July	April–May	143	153	141	151
August	May–June	137	147	138	148
September	June–July	131	141	130	140
October	July–August	131	141	130	140
November	August–September	130	140	128	138
December	September–October	126	136	123	133

Handlers proposed that the upper and lower limits of the supply-demand norms be established at plus and minus one standard deviation of the average of the actual utilization of a recent five-year period. This concept of determining norms should not be adopted. The plan would limit supply-demand price adjustments in many cases to periods when supplies relative to sales were further from the norms as now provided in the order and from those recommended herein. If the actual utilization of the five years of data were normally distributed about the average, norms based on plus and minus one standard deviation would result in zero supply-demand adjustment to the Class I price in 68 percent of the cases.

The present limits of plus and minus 45 cents should be replaced with a schedule of minimum and maximum differences from the Class I price established under the order regulating the handling of milk in the Greater Kansas City market. The change in the limits recommended herein is based on the extensive competition between the two markets in both the procurement and sale of milk. One cooperative association of producers operates a distributing plant under the Wichita order and a supply plant under the Greater Kansas City order. Another Greater Kansas City handler has extensive sales in the recently expanded Wichita market. There is also an extensive overlapping of the two milksheds. The stated Class I differential in the Wichita order is $1.65 in all 12 months of the year. The Kansas City Class I differential is $1.15 in the months of April, May, June, and July and $1.45 in the other 8 months of the year for an average of $1.35. Appropriate limits to the Wichita supply-demand, subject to further variation depending on the action of the Kansas City supply-demand adjustment, can be accomplished by setting the limits of the Wichita Class I price at the Kansas City Class I price plus 25 cents as a floor and plus 85 cents as a ceiling during the months of April, May, June, and July. During the months of August through March, the floor should be the Kansas City price minus 10 cents and the ceiling the Kansas City price plus 50 cents. Establishing this upper and lower limit on the Wichita supply-demand adjustment would have provided an average lower limit Class I price of $4.59 and an average upper limit Class I price of $5.19 during the year 1959 on a 3.8 percent butterfat basis. Official notice is hereby taken of the Wichita and Kansas City Class I prices for October, November, and December 1959.

Another issue considered at the hearing related to the average level of producer receipts which are needed to meet Class I sales and provide an adequate level of reserve supply. The standard utilization percentages in the present order reflect actual experience during the period December 1957 through November 1958. Testimony was received to the effect that the utilization percentages of 125, 125, and 135 for the months of September, October, and November, 1958, respectively were not an accurate indication of the supply-sales relationships in the market since out-of-area sales of bulk milk were substantial during this period. While it may be true that greater reserve supplies are now needed to meet the Class I requirements of local plants because of their 5- and 6-day bottling operations and that it is not therefore feasible to utilize week end surpluses for out-of-area sales, evidence shows that at the level of prices which prevailed during the period since 1958, supplies have been more than adequate to fill the Class I requirements of the market. In these circumstances, it appears appropriate to maintain the same annual average level of reserve supply as is presently provided for in the order. This can be achieved by adjusting the mid-points of the proposed norms to incorporate their seasonality at the same time keeping the annual average reserve equal to 135.4 percent of Class I sales.

Another variable in the supply-demand adjustment is the rate of adjustment per point of indicated oversupply or undersupply. The adjustment should continue to exert an active influence on the Class I price level. Only an active supply-demand adjustment will appropriately reflect changes in the supply and demand conditions in the market. The rate of adjustment should therefore continue at one cent per point of net deviation and be cumulative to the extent that adjustments in the same direction occur for a period not to exceed three months.

Consideration was also given at the hearing to the use of the ratio of producer receipts to Class I sales in the first and second months preceding the pricing month as an indicator of actual market utilization. The present order uses the second and third month preceding the pricing month as an indication of market over or under-supply in relation to the standards. Use of the second and third months experience as presently contained in the order appears more appropriate than the use of the first and second months experience since the supply-demand adjustment can be an-

nounced.[1] It is concluded that the utilization of the second and third month preceding the pricing month should continue to be used to indicate the current supply-demand situation.

The supply-demand adjustment to the Wichita Class I price became effective for the first time on May 1, 1959. Without the suspension of the third cumulative step of the rate of adjustment, the reduction would have averaged minus 18 cents per month for the 12-month period May 1959 through April 1960. With the suspension of the third step made effective September 1, 1959, the average per month for the 12-month period was minus 13 cents. With the modifications provided herein the supply-demand adjustment for the same 12 months would have averaged minus 17 cents per month. During this period the Greater Kansas City floor and ceiling would not have acted to limit the supply-demand adjustment as recommended. Official notice is hereby taken of the Wichita and Kansas City supply-demand adjustments and Class I prices as announced for October 1959 through April 1960.

3. *Cooperative standby plant.* The present Wichita order defines two different types of dairy plant operations which may become pooled. The first would be a fluid milk processing and distributing plant from which a requisite proportion of the total receipts from approved dairy farmers are distributed on routes. The second operation described is that of a country or supply plant. This operation may be designated as a pool plant through the shipment of a required percentage of total receipts to approved processing and distributing plants which serve the market.

It was proposed that a third pool plant provision be written in the order to allow a standby plant, operated by a cooperative association, to be pooled on the basis of the over-all performance of the association rather than on the basis of specific shipments from the plant.

Such a standby plant was being constructed by the Wichita Milk Producers Association at the time of the hearing. When completed, the plant will be operated as an auxiliary supply and surplus disposal operation which supplements the principal function of the cooperative in supplying the needs of other handlers serving the Wichita market.

It appears that special consideration should be given to an operation which functions to equalize the supply and demand for milk and therefore tends to promote the orderly marketing of milk in Wichita. It should be noted that the standby plant will be handling member producer milk already associated with the market. To the extent that the new cooperative facilities can also be used to develop Class I sales out of the Wichita area, all producers in the market will benefit therefrom.

To accommodate a standby plant as described above, the order should be amended to provide that a plant operated by a cooperative association be pooled during any month in which 60 percent or more of the milk delivered during the month by approved dairy farmers who are members of such an association is delivered directly or is transferred by the association to pooled distributing plants of other handlers.

4. *Pool plant standards.* Testimony was received regarding the need to modify present pooling requirements of the order with respect to distributing plants. It was proposed that the month of July be included as one of the flush production months in which a plant be pooled if 25 percent of the total receipts were disposed of as Class I and 10 percent of the total receipts were disposed of on routes in the marketing area. The present order specifies these minimum percentages of association with the market during the months of March through June inclusive. In the months of lower supply, presently specified as July through February, the requirements are that 35 percent of receipts be utilized as Class I and 15 percent be disposed of on routes in the marketing area.

It was pointed out that July is typically a month when Class I sales decline and production varies greatly from year to year. In July 1959, one plant failed to qualify because Class I sales were less than 35 percent of Grade A receipts. The producers delivering at such a plant were not pooled for that month.

A further proposal was received to change the percent of a plant's receipts which must be sold in the marketing area from 15 percent to 10 percent during the months of August through February. This change was deemed necessary to reduce the danger that the Arkansas City Cooperative Association should fail to be pooled. This cooperative has long established route sales outside the present market and could have difficulty meeting the 15 percent in-area requirement. This would be particularly true if the bulk tank receipts should continue to increase at the association plant. It should be noted that a plant would still be required to dispose of 35 percent of its total receipts from approved dairy farmers as Class I during the months of August through February in order to be pooled.

It is concluded that the order should be amended to include the month of July in the period when lower pooling requirements apply and to reduce the percent of in-area route sales from 15 to 10 percent during the months of August through February.

Handlers proposed that if a plant met the pool requirements in any one month it should also be pooled in the next month following. This proposal should not be adopted for two reasons: Firstly, a plant not regularly associated with the market could be pooled for one additional month after the termination of a military contract or some other sales situation of short duration. Secondly, this proposal violates the concept that a plant should demonstrate current association with the market on an objective basis from month to month.

5. *Classification and accounting.* It was proposed that if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of, the pounds of skim milk used or disposed of in such a product should be an amount equivalent to the nonfat solids contained in such a product plus all of the water originally associated with such solids.

The present order provides for the skim milk equivalent of concentrated products used to produce cottage cheese. Skim equivalent accounting also occurs with reconstituted or recombined Class I products by virtue of water actually being added back to the solids. On the other hand, solids used in the fortification of any Class I fluid product are presently accounted for on the basis of the actual number of pounds of solids used.

These two methods of accounting result in different costs for identical solids which cannot be distinguished as to their ultimate use. The order should be amended to provide for the accounting of all receipts and disposition on the same basis. The skim milk equivalent provides the basis upon which uniform accounting may be accomplished and insure local producer milk the priority of Class I utilization.

6. *Cottage cheese.* Under present order provisions, cottage cheese is considered as Class II utilization only if it is made in plants from which distribution is made in those portions of the marketing area where cottage cheese is required to be made from Grade A milk. Such area presently includes the City of Wichita, where a city ordinance with respect to milk and milk products is now in effect, and the territory within three miles of the city limits, which is covered by a resolution of the Sedgwick County Board of County Commissioners. The Class II price is 80 cents per hundredweight above the Class III price.

It was proposed that Class II include only that milk used to produce cottage cheese actually sold within the territories requiring cottage cheese to be made from Grade A sources. This would involve a substantial reduction in Class II use since the handlers involved sell a sizeable proportion of the cottage cheese they make outside of Wichita and the 3-mile limit. The proposal was based on the fact that outside the 3-mile limit, the cottage cheese must be sold in competition with cottage cheese made from cheaper sources of milk. Such competition would include those plants regulated under the Wichita order which do not sell cottage cheese within the 3-mile limit, and handlers regulated under other Federal orders.

The original decision to provide a separate classification for milk used to produce cottage cheese was based in large part on the fact that Grade A milk was required for the production of cottage cheese sold in and around Wichita. In practice, the handlers made their cheese for sale in territories beyond the 3-mile limit in the same facilities and so required Grade A milk for that portion of their output as well as for the portion sold within the 3-mile limit.

Apparently this has continued to be the case even though it involves classification as Class II at a price 80 cents over the Class III price. Data of record show that Class II use in August 1959

[1] Before the beginning of the pricing month, thereby furnishing advance notice to both producers and handlers.

(the latest data available at the time of the hearing) was 1,553,777 product pounds. This compares with 1,581,243 in August 1958 and 1,354,500 in August 1957. The latter figure reflects the production of cottage cheese by the same group of handlers prior to amendment of the order, effective June 1, 1958, to provide a separate class for cottage cheese.

In view of the continued reliance of this group of handlers upon Grade A milk for their entire output of cottage cheese, no changes should be made in the classification or pricing of milk so used. All the milk used to produce cottage cheese in facilities approved for the sale of cottage cheese in jurisdictions where it is required to be made from Grade A milk should continue to be Class II.

7. *Inventory accounting.* Provisions of the present Wichita order classify month-end inventories of fluid milk products (products which either usually become Class I upon disposition or are unprocessed milk, skim milk or cream) as Class III utilization subject to a further charge if allocated to a higher utilization the following month. The reclassification charge, however, is applicable to only that portion of inventory which was allocated as producer milk in Class III the month preceding. In these circumstances, some month-end inventory representing other source receipts can be used in a higher class the following month without incurring a reclassification charge.

In order to maintain uniformity of minimum prices to all handlers it is concluded that the order should be amended to equalize prices with those which apply to current receipts of producer milk or other source milk when opening inventory of other source milk is allocated to a higher class of utilization.

The reclassification charge, however, should apply only to other source inventories of fluid milk products which were not previously priced under another Federal order.

8. *Provisions with respect to unpriced milk.* Evidence presented at the hearing indicated the need for an objective basis to be used in determining the extent to which producer milk is available in the market. The present order requires that the market administrator determine the availability of producer milk and the conditions under which a handler should be charged for the use in Class I of other source milk not subject to the pricing provisions of another Federal order.

In view of the expanded market and the increased difficulty in determining the needs of the market, the market administrator should be relieved from making the decision with respect to the availability of producer milk.

The order should be amended to provide that no charge be made on unpriced, other source milk used in Class I in any month in which the supply of producer milk is less than 120 percent of the Class I utilization in the market.

9. *Administrative provisions.* Certain sections of the order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

The market administrator should be allowed to reduce any amount due a handler from the producer settlement fund by the amount of any unpaid balances due the market administrator from such a handler to avoid unnecessary administrative inconvenience.

The marketing service charge should be changed to provide a maximum of six cents per hundredweight. The present order provides for a maximum of four cents which is not adequate in view of the current cost of performing the sample testing and weight verification program in the expanded marketing area. Should the proposed rate exceed the actual cost of performing these services, the Secretary may provide for a lesser amount.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Wichita, Kansas, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

§ 968.10 [Amendment]

1. Revise § 968.10(a) to read as follows:

(a) During any of the months of March, April, May, June or July within which such plant disposes of as Class I milk an amount equal to 25 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such plant's total receipts from approved dairy farmers;

2. Revise § 968.10(b) to read as follows:

(b) During any of the other months within which such plant disposes of as Class I milk an amount equal to 35 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such plant's total receipts from approved dairy farmers;

3. Renumber present § 968.10(d) to § 968.10(e).

4. Insert a new § 968.10(d) to read as follows:

(d) Which is operated by a cooperative association and 60 percent or more of the milk delivered during the current month by approved dairy farmers who are members of such association, is delivered directly or is transferred by the association to pool plants as described in paragraphs (a) and (b) of this section.

§ 968.45 [Amendment]

4a. Change the period at the end of the first paragraph in § 968.45 to a colon and add the following proviso: *"Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids."

§ 968.51 [Amendment]

5. Revise § 968.51(a) to read as follows:

(a) *Class I milk.* The price per hundredweight shall be the basic formula price for the preceding month plus $1.65 during all months of the year, plus or minus a supply-demand adjustment computed as follows:

6. In § 968.51(a)(2)(iii), revise the tabulation to read as follows:

Delivery period for which price applies	Delivery period used in computation	Percentages	
		Minimum	Maximum
January	October-November	125	135
February	November-December	124	134
March	December-January	125	135
April	January-February	125	135
May	February-March	132	142
June	March-April	136	146
July	April-May	143	153
August	May-June	137	147
September	June-July	131	141
October	July-August	131	141
November	August-September	130	140
December	September-October	126	136

7. Revise § 968.51(a)(3) to read as follows:

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One cent times each such percentage point of net deviation; plus

(ii) One cent times the lesser of:

(*a*) Each such percentage point of net deviation, or

(*b*) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One cent times the least of:

(*a*) Each such percentage point of net deviation;

(*b*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding, or

(*c*) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

8. In § 968.51(a), add a new subparagraph (4) to read as follows:

(4) The Class I price so computed shall be adjusted so as to be not less than the Class I price computed for the same period pursuant to Federal Order No. 13 (Kansas City) minus ten cents during each month of the period August through March and plus twenty-five cents for each of the months of April through July nor more than the Kansas City Class I price plus fifty cents during each of the months of the period August through March and plus eighty-five cents for each of the months of April through July.

§ 968.61 [Amendment]

9. Revise § 968.61(b) to read as follows:

(b) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualifies as a pool plant pursuant to the provisions of § 968.10(c) or § 968.10(d).

10. Revise § 968.70 to read as follows:

§ 968.70 Net pool obligations of handlers.

The net pool obligation for milk received during each month by each handler shall be computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 968.46(c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 968.46(a)(7) and the corresponding step of § 968.46(b) by the applicable respective class prices;

(c) Add any amount obtained through multiplying by the difference between the Class III price for the preceding month and the Class I price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b); or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month;

(d) Add an amount obtained through multiplying by the difference between the Class III price for the preceding month and the Class II price for the current month the lesser of:

(1) The hundredweight of milk subtracted from Class II pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b); or

(2) The hundredweight of producer milk classified as Class III utilization (except as shrinkage) for the preceding month less the hundredweight of milk subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b).

(e) During any month in which the total receipts of producer milk are more than 120 percent of the total Class I utilization at all pool plants, add an amount equal to the difference between the values (subject to butterfat and location differentials) at the Class I price and the Class III price with respect to:

(1) Other source milk subtracted from Class I pursuant to § 968.46(a)(2) and the corresponding step of § 968.46(b).

(2) Milk in inventory subtracted from Class I pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b) which is in excess of the sum of:

(i) The quantity of milk for which a payment is computed pursuant to paragraph (c) of this section; and

(ii) The quantity of milk subtracted from Class III pursuant to § 968.46(a)(3) and the corresponding step of § 968.46(b) for the month preceding.

(f) During any month in which the total receipts of producer milk are more than 120 percent of the total Class I utilization at all pool plants, add an amount equal to the difference between the values (subject to butterfat and location differentials) at the Class II price and the Class III price with respect to:

(1) Other source milk subtracted from Class II pursuant to § 968.46(a)(2) and the corresponding step of § 968.46(b).

(2) Milk in inventory subtracted from Class II pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b) which is in excess of the sum of:

(i) The quantity of milk for which a payment is computed pursuant to paragraph (d) of this section; and

(ii) The quantity of milk subtracted from Class III pursuant to § 968.46(a)(3) and the corresponding step of § 968.46(b) for the month preceding.

11. In § 968.82, delete the first sentence in the proviso which reads as follows: "That the market administrator shall offset any such payment due to any handler against payments due from such handler."

12. Add new paragraph (c) to § 968.84 to read as follows:

(c) Any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handlers pursuant to §§ 968.82, 968.83, 968.85, 968.86 or 968.87.

13. Revise § 968.86(a) to read as follows:

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 968.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

Issued at Washington, D.C., this 4th day of May 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-4158; Filed, May 6, 1960; 8:49 a.m.]

[7 CFR Part 1028]

[Docket No. AO-314]

MILK IN CENTRAL ILLINOIS MARKETING AREA

Decision on Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Bloomington and Peoria, Illinois, on August 25–September 4, 1959, pursuant to notice thereof issued on July 20, 1959 (24 F.R. 5908), and notice of postponement of hearing issued July 28, 1959 (24 F.R. 6165), upon a proposed marketing agreement and order regulating the handling of milk in the Central Illinois marketing area.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on February 15, 1960 (25 F.R. 1448), filed with

the Hearing Clerk, United States Department of Agriculture, his recommended decision, containing notice of opportunity to file written exceptions thereto.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Bloomington and Peoria, Illinois, on August 25–September 4, 1959, pursuant to notice thereof issued July 20, 1959 (24 F.R. 5908) and notice of postponement of hearing issued July 28, 1959 (24 F.R. 6165).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If a marketing agreement or order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) The handling of all milk to be regulated by the marketing agreement and order for the Central Illinois marketing area, as contained in this decision, is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products.

Although the Central Illinois marketing area, as herein defined, is located entirely within the State of Illinois a substantial proportion of the fluid milk disposed of in such area originates from sources outside the State. A number of farms and plants in the States of Wisconsin, Iowa, Indiana, and Missouri have been and are supply sources of milk for the counties to be regulated. At least 14 Wisconsin and Iowa plants and one Minnesota plant supplied milk to the Central Illinois market in 1958. One source in Wisconsin supplied Central Illinois handlers with more than 13 million pounds during that year and continues to be a major source of supplementary milk. During several months of the year such imports amount to as much as 10–20 percent of an individual handler's receipts of bottling quality milk. The importation of milk is not confined to a relatively few handlers. Imports are made by all the larger handlers who operate routes throughout the entire marketing area and by many of the smaller handlers whose individual operations are confined to a particular county or group of counties. Relatively few plants rely entirely upon locally-produced farm supplies to cover their complete bottling needs.

Fluid milk is distributed in the marketing area on routes originating at plants regulated by the Federal orders for the Chicago, Illinois, and South Bend-LaPorte-Elkhart (Indiana) marketing areas. Route sales by Chicago handlers in the Central Illinois marketing area in June 1958 amounted to approximately 4.7 million pounds. Chicago order handlers also furnish bulk fluid milk and cream to numerous Central Illinois plants as supplementary supplies. In 1958 more than 2.0 million pounds were furnished in this manner. Fluid milk by-products are imported in packaged form by a Central Illinois handler from an affiliated plant at St. Louis, Missouri, where the milk used to produce such products is priced by the Federal order for the latter market. These by-products are distributed by the Central Illinois handler on routes in the marketing area. Milk received at plants regulated under each of the three orders referred to has been determined to be in the current of interstate commerce or to directly burden, obstruct or affect interstate commerce in milk.

Milk and fluid milk by-products received from out-of-state sources are disposed of at wholesale and retail in direct and regular competition with fluid milk and by-products derived from milk produced on farms within the State of Illinois. In many instances in-state and out-of-state milk are commingled at the time of processing in the Central Illinois plant. In other instances Central Illinois handlers handling only milk produced within the State of Illinois compete in the distribution of fluid milk and its by-products with handlers receiving milk produced primarily outside the State.

(2) The issuance of a milk marketing order is warranted to achieve the purposes of the Agricultural Marketing Agreement Act of 1937, as amended.

It is the declared policy of the Congress, as stated in the Agricultural Marketing Agreement Act of 1937, as amended, to establish and maintain such orderly marketing conditions as will establish minimum prices to the producers of the commodity at a prescribed level. The prices which it is declared to be the policy of the Congress to establish, for the purpose of a marketing agreement or order, shall reflect the "price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products" in the marketing area to which the contemplated marketing agreement or order relates, shall insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Such level of prices, once established, shall be adjusted as the Secretary of Agriculture finds necessary on account of changed circumstances. It is concluded from the record evidence, as referred to below, that (1) such Congressional objectives will not be accomplished for producers who are the primary source of milk supply for the Central Illinois marketing area without the institution of an order regulating the handling of milk in such area, and (2) public hearing procedure as required by the statute is necessary to assure full opportunity for representation of all parties interested, including the producers (who are most concerned), and to allow public participation, in presenting evidence relating to marketing conditions, in the determination of prices in accordance with the criteria established by the Congress.

The Central Illinois marketing area, as defined herein, lacks a full supply of milk from sources which may be identified primarily with this particular market to the exclusion of other fluid milk markets. Numerous handlers, with both large and small operations, in the Central Illinois market rely upon supplies from distant sources, mainly in Wisconsin, to supplement milk received from nearby Illinois producers. These distant milk supplies in large part represent, at present, the surplus, or left-over, milk from the fluid milk requirements of other markets and are only incidentally associated with the Central Illinois market. Such milk is in position to, and does, take advantage of that fluid market which returns the highest price at the time, without obligation to be available when needed by the Central Illinois market. The distributors of such milk are in position to, and do, take advantage of that fluid market which returns the highest price at the time, without obligation to make such milk available when needed by the Central Illinois market.

The Central Illinois market should be open, of course, to any duly approved milk, producers or plants, wherever located, but the consumers of such area are entitled to dependable sources of approved supplies and the producers on which this market primarily depends should have, if they desire it, price protection against the surplus supplies of other fluid milk markets, and particularly so when the importation of supplemental supplies brings about the disposition of nearby milk in surplus uses and relatively low prices to the producers involved.

Procurement policy at a number of Central Illinois plants has led to relatively low prices to nearby producers for milk representing the bulk (80–90 percent) of their milk receipts, while higher prices have been paid simultaneously for the lesser proportion of milk purchased from more distant, but indefinite, sources. One company of substantial size does not bargain with the local producers to any appreciable extent. A price is offered and producers are obliged to deliver at that price or not at all. If insufficient milk is delivered, the company purchases elsewhere. Nearly 50 percent of all producers supplying the Central Illinois market are affected by this procurement policy. Also it is generally the plan of handlers to project requirements and to contract for supplemental supplies to cover expected needs rather than to carry any significant quantities of milk in reserve. This policy has been followed to keep milk procurement costs at minimum, since under present conditions the costs of carrying a full supply from local producers on a

year-round basis is relatively greater than the extra amount (over the local producer price) spent on borderline quantities purchased to complete fluid milk requirements. Under an order there would be less reluctance to carry additional supplies.

The contention was made in the record that because the Central Illinois market as a whole is not a "surplus-producing" market there is no need for regulation to establish and maintain orderly marketing conditions for the regular producers. Regulation of this kind is not reserved, however, to the settlement of problems of surplus. Whether marketing conditions are orderly may revolve around problems of marketing, price or bargaining. For example, are the price plans in the market effective in promoting market stability for producers? Is there a reasonable distribution of fluid milk sales among all producers? What circumstances require the use of outside (temporary) sources of milk? Do producers have information available as to market conditions? Price problems may involve the level of prices in the area relative to other areas, the adequacy and dependability of local supplies as influenced by prices, and the disparity of prices among producers and among handlers in various segments of the market. On the bargaining side the questions may be raised, "Is there sufficient confidence in the bargaining system, or are cooperatives in a position to bargain effectively with all or certain handlers?"

To some degree nearly all the problems implicit in the above questions are demonstrated by the record of the hearing. As previously stated, the procurement policy of handlers generally has resulted in the purchase of more distant supplies during the same periods when locally-produced milk is underpriced (further discussed under Class I price), and sometimes left without a Class I outlet. Although the sales patterns of handlers cover a wide area, there is no effective bargaining program, except in very local terms, on which producers generally may rely for a voice in making the price of their product. More than half of all producers have no representation, except as individuals, with their handlers. Although local supplies are inadequate to the growing needs of the market, and temporary sources of milk are utilized, local farmers sometimes must wait to find an outlet. Also, there is no apparent means by which producers may acquire on their own the information about their market and its requirements on which to base a sound marketing program. In view of prevailing procurement practices and attitudes, many producers in this market are unable to improve their marketing position, receiving a lower level of prices than is justified either on the basis of alternative supply costs or on the market's current supply position in relation to its rapidly growing needs for milk.

The introduction of an order will tend to effectuate the declared policy of the statute by assisting in the establishment and maintenance of orderly marketing conditions for all the producers, wherever located, supplying this market, and thus will provide the basis for insuring an adequate and dependable supply of approved milk for consumers. The principal measures to be employed for this purpose are:

(a) A regular and dependable method for determining minimum prices to producers at levels contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform pricing to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handlers' records of receipts and utilization further to insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk; and

(f) Marketwide information on receipts, sales, and other data relating to milk marketing in the area.

(3) *Scope of regulation.* It is appropriate to designate clearly what milk and what persons would be subject to the various provisions of the order. This may be done by providing definitions which describe the area involved, and set forth the categories of persons, plants and milk products to which the provisions of the order apply.

(a) The marketing area should be defined as the area including twenty-eight specified counties located in the central part of the State of Illinois.

The marketing area should consist of the area geographically within the perimeter boundaries of the counties of Champaign, Christian, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Fulton, Knox, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Moultrie, Peoria, Piatt, Sangamon, Shelby, Stark, Tazewell, Vermilion, Warren and Woodford, in the State of Illinois. Within these counties are such cities as Peoria (pop. 111,856), Galesburg (pop. 31,425), Springfield (pop. 81,628), Bloomington (pop. 34,163), Decatur (pop. 66,269), Mattoon (pop. 17,547), Danville (pop. 37,864), and Champaign (pop. 39,563). Located also within such counties are certain governmental institutions and military facilities which are supplied with milk by companies that would become handlers under the regulation. Such facilities are included as part of the marketing area if located either entirely or partly within such counties, since it would not be administratively feasible to segregate deliveries of fluid milk made within the marketing area in the case of any such institutions or facilities found partly within and partly outside the designated counties. The population of the entire marketing area exceeded 1.1 million in 1950.

For pricing purpose the counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon and Shelby are designated as the "base zone" of the marketing area.

Most of the fluid milk disposed of in the above counties is bottled in plants, located within such counties, which will be fully subject to the order. A small percentage of the total fluid milk distributed originates at bottling plants regulated under other Federal orders. A still smaller percentage, perhaps one percent, of the total milk distributed is bottled at other plants located outside the defined marketing area.

As the result of active competition in the distribution of milk at wholesale and retail throughout the named counties, a complex criss-cross pattern of distribution routes has been established. Several of the largest plant operators, including three companies with national chain affiliations, maintain route distribution throughout such counties, although each such handler does not maintain routes in each and every county. One chain operator operates seven milk bottling plants located within this area from which routes are operated. In the aggregate the routes of such handler from these plants extend into all the counties herein proposed for regulation. Handlers with smaller operations tend to be more localized in their distribution, sometimes confining routes to the respective county within which the plant is located, but nevertheless are in active day-to-day wholesale and retail route competition with the larger handlers who, taken together, operate throughout the entire twenty-eight county area, even into the rural portions. Although some routes of handlers to be regulated extend into the other (23) counties which were proposed for regulation by interested parties, and in certain instances even into counties not considered for regulation under this order, the great bulk of their fluid milk sales are made within the above-named twenty-eight counties.

As evident from the widespread competition among handlers throughout the twenty-eight counties, the health regulations applicable to the production and handling of fluid milk are so similar in all such counties as to permit milk to move from one part of the area for consumption in another, without meeting additional health restrictions. State health regulations have been established which closely follow the standards of the Milk Ordinance and Code of the U.S. Public Health Service. The State regulations provide a minimum standard which may be, but seldom is, modified by stricter requirements adopted by local health authorities. In view of the high degree of similarity of minimum health standards, and the reciprocity of approval practiced throughout the twenty-eight county area, it is reasonable to apply single regulation to the handling of all milk produced for such area.

It is, of course, neither administratively feasible nor necessary to include within the marketing area all the territory in which handlers may be distributing any portion of their fluid milk sales. The twenty-eight county area adopted herein as the marketing area, together with other order definitions and regulatory provisions, reduces to a minimum

the "out-of-area" sales of fully regulated handlers, without subjecting to full regulation plants which either represent a minor competitive factor insofar as the entire area is concerned, or are not intimately and primarily associated in the handling of milk for the "Central Illinois" marketing area but procure and sell the major volume of their milk in other markets against other competition. On the other hand, the order provides regulated handlers with reasonable protection from possible producer price disadvantage in those areas where they compete with distributors whose milk will not be pooled. The perimeter boundary of the marketing area represents a line of demarkation between the fully regulated and other distributing plants which will tend to reduce to a minimum both the administrative and competitive problems associated with the procurement and distribution of milk at the fringes of the marketing area.

It is concluded that twenty-three counties discussed below, which also were considered at the hearing, should be omitted from the marketing area on the basis that their inclusion in the marketing area would have little purpose in promoting the orderly marketing of milk as provided by this regulation.

Among the counties proposed for inclusion were Whiteside, Carroll, Henry, Mercer, Lee, and DeKalb, Illinois. Although the proponent of the proposal to include these counties did not make an appearance at the hearing, certain information on the marketing of milk therein was developed in the record. These counties are located to the north and northwest of the defined marketing area. Only small proportions of the fluid milk business of handlers to be regulated are conducted in such six counties. Greater volumes of milk are sold in the first four of such counties by milk distributors regulated under the Federal orders for the Quad Cities and Cedar Rapids, Iowa, marketing areas. Local handlers in these counties frequently purchase packaged fluid milk and by-products from Quad Cities handlers. The amount of fluid milk business done in such four counties by Quad Cities handlers represents nearly 15 percent of the total Class I sales of the Quad Cities market, but the sales of Central Illinois handlers in these counties represent only a negligible proportion of the Central Illinois market. There was no testimony in support of the inclusion of Lee and DeKalb counties. However, these counties are served primarily by distributors regulated under Order No. 41 and Order No. 91 for Chicago and Rockford-Freeport, Illinois, respectively.

There are no local handlers in Iroquois County. A substantial proportion of the fluid milk distribution in this county is carried on from other markets where producer prices are regulated under existing Federal orders. Distribution by Central Illinois handlers in this county from plants in the defined area represents a very minor proportion of their total sales.

Bureau, Putnam, La Salle, Kankakee, and Grundy Counties are served primarily by handlers with plants located therein or by plants regulated by other Federal orders. Distribution from Central Illinois area plants in these counties is minor.

Effingham and Clark Counties may be referred to as rural counties. They are served mainly by distributors having only minor distribution in the defined marketing area. Clark County has no local milk distribution plants, while Effingham County has only one such plant. Handlers who would be fully regulated have only small percentages of their distribution in such counties.

Brown, Pike, Schuyler, and Scott Counties have no local milk distributing plants. Milk is furnished to these areas by both handlers to be regulated and by milk distributors at Quincy, Illinois, located at a substantial distance from the nearest populous centers of the defined marketing area. However, because of the rural nature of these counties milk sales volumes are small and those sales made by individual handlers to be regulated represent a very minor proportion of total business in each. The situation in Cass, Hancock, and Morgan Counties is very similar to that in above-named four counties, except that each of such three counties has one local milk plant. The omission of all seven counties as a group will delineate the Central Illinois market from an area served mainly by local handlers and from plants in the Quincy market.

Adams County is served primarily by local handlers at Quincy. Quincy, the most populous community in such county, is beyond the customary route distribution areas of most handlers to be fully regulated. Distribution in this area is not integrated substantially with distribution in the defined marketing area.

Greene County is served principally by milk distributors outside the twenty-eight county area. This county is proposed for regulation as a part of the Suburban St. Louis marketing area pursuant to a recently issued decision, and regulation of this type should not be duplicated in such county.

References were made in the exceptions to the omission from the marketing area of certain counties bordering on those counties included. It is concluded after review, however, that extension of the area beyond the limits set by the recommended decision is not necessary to insure orderly marketing for producers and that the area adopted will insure handlers reasonable protection in their competition. We do not believe it reasonable to conclude that it is not feasible from the standpoint of either handlers or producers to begin regulation on the basis of the twenty-eight county area. If after experience with regulation an extension of the marketing area seems desirable, such matter may be considered under order amendment procedure.

Plants. The minimum class prices of the order and the pooling of the proceeds for milk should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants which have significant relationship to the marketing area. Accordingly, such plants should be defined as "pool plants", the qualified dairy farmers supplying such milk, as "producers", and this milk, as "producer milk". Certain other definitions such as "nonpool plant", "route", "handler", "producer-handler", and "other source milk", included for clarity and brevity, serve to distinguish between kinds of milk and among types of plants and persons affected by the regulation. Such of these definitions as are self-explanatory are not discussed further.

The term "pool plant" should include any milk plant from which the total Class I milk disposed of on routes (inside or outside the marketing area) is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from other plants during the month, and from which 20 percent or more of the total disposition of Class I milk from the plant is made in the marketing area on retail or wholesale routes. Such term also should include any milk plant which receives Grade A milk from dairy farmers and from which not less than 50 percent of such receipts during the month are moved as milk to a distributing-type plant (described above). If such shipments are not less than 50 percent of such farm receipts at the plant during each of the months of September, through January, provision should be made to continue the pool plant status of such plant during the following months of February through August, unless the operator of such plant makes prior written application to the market administrator for nonpool status.

Since the marketwide pooling of the proceeds for Grade A milk received from dairy farmers at pool plants, as provided for hereinafter, is considered essential to promote the orderly marketing of milk in this area, the establishment of reasonable delivery performance standards for pool plants is essential to the proper functioning of the marketwide pool.

Milk is disposed of for fluid consumption in the marketing area from plants having varying degrees of relationship to the market, ranging from exclusive to temporary, or incidental, service as suppliers of the market. Plants only temporarily, or incidentally, associated with the market should not be permitted or required to equalize (pool) their sales of milk with other plants serving the market regularly and substantially, and consequently should not be subject to full regulation. If milk at a plant not genuinely associated with the market were to be permitted to share on a pro rata basis in the Class I utilization of the entire market, that price paid for Class I milk could be dissipated without accomplishing its intended purpose of inducing an adequate supply of pure and wholesome milk for the market. If a plant were to be pooled on the basis of token shipments of milk for sale as Class I milk, then any milk plant selling a lesser share of its milk in Class I than the average for all pool plants might be encouraged to make such sales merely for the purpose of receiving equalization payments from the pool. The only other qualification any plant is required to meet, it may be noted, is approval by a recognized health authority as a supplier of Grade A milk for the market.

Because reserve milk is an essential part of any fluid milk operation, there will be some excess of milk over fluid requirements at distributing plants engaged primarily in supplying other markets, and particularly so in the months of flush production. Such plants, and perhaps other plants engaged in substantial manufacturing operations, might make token sales, or supply milk on an opportunity basis, to regulated plants when supplies are relatively short in order to participate in the marketwide pool. Such plants would not represent dependable sources of milk for consumers in this marketing area. A distributing-type plant from which less than 50 percent of its Grade A milk receipts is distributed on wholesale and retail routes as Class I milk should not be considered as being primarily in the business of fluid milk distribution and the pooling of milk at such plant obviously would dissipate the marketwide proceeds from the sale of Class I milk.

A distributing plant from which more than 80 percent of its Class I milk is distributed outside the defined marketing area would not be substantially and sufficiently associated with the Central Illinois market to be subject to full regulation and to participate in the marketwide pool. The major portion of the fluid milk business at such plants is in areas where the competition for fluid sales is primarily from other unregulated plants or from plants regulated under other orders. The full regulation of such plants could place them at a competitive disadvantage in supplying other areas with which they are more closely identified.

To provide for the full regulation of plants with less than 20 percent of their Class I milk distributed in the marketing area would not be feasible in this market. The adoption of a lower percentage in the presence of the relatively wide distribution patterns of some distributing plants serving this area would extend unduly and unnecessarily the scope of the regulation. On the other hand, use of a higher percentage of sales within the marketing area as a means of further reducing the scope of regulation would excuse from the regulation plants which have substantial sales in the market, and thus have an important influence on the maintenance of returns to all dairy farmers who serve as the primary sources of supply for this market. Likewise, a further reduction in the size of the marketing area would expose an unreasonable proportion of the total fluid milk sales made from regulated plants to competition from unregulated milk.

Distributing plants serving the Central Illinois marketing area are supplied in large measure with milk directly from nearby dairy farms. Additional milk from receiving stations or supply plants is received, however, at numerous local plants. The delivery of 50 percent or more of the monthly receipts of milk from dairy farmers to distributing-type plants serving the marketing area (or to governmentally operated institutions or facilities in the marketing area) will identify those supply-type plants which establish substantial association with this market. The recommended decision indicated that the months of August through January were the months of greatest need for supply plant milk and adopted such period as the qualifying months for continuing pool plant status. An exception was made, however, that August should not be considered, for pool plant qualification purposes, a month when the need is as great as in the subsequent months of such period. It is concluded, after further study of the record, that for a supply plant to be eligible for continuous pooling throughout the year, it should be required that 50 percent of receipts be shipped in each of the months of September through January.

During other months of the year supplies of milk received at distributing plants directly from producers normally will be adequate to supply most of the Class I requirements of distributing plants in this market. It would be more economical in these months to leave a large portion of the more distant, reserve milk at country supply plants for manufacturing, or for movement therefrom directly to manufacturing outlets. Thus, delivery performance requirements may be omitted in such months for those plants which have established close association with the market.

The proposed pool plant definition in conjunction with the definition of marketing area will bring under full regulation those plants which, and the milk of those dairy farmers who, have an essential and substantial function in supplying this area with an adequate and dependable supply of fluid milk. Any plant, regardless of its location, will have equal opportunity to comply with the standards and have its producers share proportionately in the total Class I sales for the market through the marketwide pool. Whether or not plants and dairy farmers become associated with the pool will depend on the economic considerations with which they are confronted such as prices, transportation costs and alternative outlets. On past record those supply plants which have been the principal sources of supplementary milk should not have difficulty meeting these requirements.

Some fluid milk is disposed of in the marketing area from plants which are fully subject to the classification, pricing and pooling provisions of other Federal orders. It is not necessary to extend full regulation under this order to such plants, which dispose of a major portion of their receipts in other regulated marketing areas. To do so would subject such plants to duplicate regulation. Provision should be made, therefore, to exempt such plants from regulation under this order, except for the filing of reports with the market administrator with respect to receipts and utilization of milk at such plants in order that he may complete his verification of the uses of milk.

In the interest of maintaining stability of marketing conditions in the Central Illinois marketing area, it should not be possible for a handler to change markets on a month to month basis. It is provided, therefore, that a distributing pool plant will not become exempt until the fourth month during which a greater quantity of Class I milk is disposed from the plant on routes in the other regulated market than is disposed of in such manner in the Central Illinois marketing area. Likewise, once made exempt on this basis pool plant status for the plant may not be regained for a three-month period if still subject to the class price and pooling provisions of the other order.

The term "route" should be defined to distinguish between the various methods of disposition of Class I milk. This definition will facilitate the application of other order provisions. The term refers specifically to the method by which Class I milk is distributed to wholesale and retail customers. It does not apply to movements of milk between plants.

Handler. The term "handler" should be defined to include the operator of an area plant, and any qualified cooperative association with respect to milk of producers caused to be diverted (on a limited basis) from a pool plant to a nonpool plant for the account of the association.

The term "handler" is used to identify those persons who are responsible for reporting their receipts and utilization of milk and on whom financial obligations are imposed by the order. Reports from the operators of all area plants are necessary to determine the status of their plants as pool or nonpool plants, and to compute their respective obligations. Efficient marketing of milk will be promoted by providing a means for cooperative associations to divert to nonpool plants producer milk not needed at pool plants and to assume responsibility for the accounting and continued pooling of such milk.

Producer-handler. The term "producer-handler" should include a person who operates a dairy farm and a distributing plant and who during the month receives no milk or fluid milk products from other dairy farmers or from nonpool plants.

There are relatively few producer-handlers in the Central Illinois area. Their enterprises are relatively small and may be described as family-type operations. Their sales of milk represent a minute proportion of the total fluid milk sales in the area. There is no indication that the sale of milk by producer-handlers has had a disrupting effect on the orderly marketing of milk in this area. Accordingly, it is not necessary at this time to subject their milk to full regulation to effectuate the declared purpose of the Act.

The exemption from pricing and pooling of such family-type operation should not permit other operations to masquerade as producer-handlers and so to abuse the exemption to the detriment of producers and the effectiveness of the order. It is appropriate, therefore, to provide that to maintain producer-handler status the maintenance, care and management of the dairy animals and other resources necessary to produce milk and the processing, packaging and distribution of the milk shall be the personal risk of the person involved. The term producer-handler is not intended to include any person who does not accept complete responsibility and

risk for the operation of the plant in which the milk of his own production is processed and bottled for sale. There is no practical distinction in function between a plant where milk may be "custom bottled" for a dairy farmer and the plants of handlers who buy milk from producers. The activities of any dairy farmer in distributing milk "custom bottled" may be compared with that of the "vendor" or "sub-dealer" who buys milk in packaged form from a fully regulated handler for route distribution to consumers.

The producer-handler should be required to make reports of his receipts and utilization as the market administrator deems necessary to verify the continuing status of such person as a producer-handler and to facilitate the accounting and verification of transactions which may involve other handlers also.

Producer. The term "producer" should be defined to include any dairy farmer who produces milk approved by responsible health authorities for the production of milk for disposition as Grade A milk to consumers, which is received at a pool plant (including milk diverted as provided herein).

The intent of the order is to price and pool that milk of dairy farmers which is eligible for fluid disposition and which is received at plants that qualify as pool plants. Plants distributing milk labeled as Grade A milk are required by the various health authorities having jurisdiction in the marketing area to obtain such milk from dairy farmers holding farm permits or approved by such health authorities as sources of milk for Grade A distribution. Also, reciprocal approval is recognized by the various health authorities having jurisdiction within the marketing area. Health department acceptability and delivery of milk at a pool plant are reasonable criteria for distinguising the producers of milk which is to be priced and pooled under the order from other dairy farmers. Producer-handlers should not be considered as producers for any portion of their milk since their fluid sales are exempt from pricing and pooling.

Dairy farmer for other markets. A definition of "dairy farmer for other markets" is included also as a means of distinguishing clearly between persons producing milk primarily for this market and those engaged in supplying fluid milk plants operated by a handler or his affiliate which are not pool plants under the order. Under the definition a dairy farmer producing milk approved by a duly constituted health authority for fluid disposition who had delivered his milk as non-producer milk during any portion of the period September through January to a nonpool fluid milk plant operated by a handler, his affiliate, or a person who controls or is controlled by the handler will not be a producer with respect to milk delivered from such farm to a pool plant during the following February through August (after 1960). This definition is included to prevent milk produced primarily for other fluid markets from being carried in the pool as producer milk for temporary periods in the flush production season, with adverse effect upon the returns to regular producers, when, in fact, the distributor who received the milk in the low production season does not require it and may not have adequate facilities to handle it. Without this definition, there would be definite possibilities the Central Illinois market could be burdened with the surplus of unregulated markets without a corresponding share of the Class I sales.

Producer milk. The term "producer milk" should be defined to include the skim milk and butterfat contained in Grade A milk produced by persons qualifying as producers which is received at a pool plant directly from such producers' farms (including milk diverted to other plants under specified conditions). The term is intended to include that milk approved for fluid disposition which is to be priced and pooled under the order. A definition of such milk provides a convenient reference for use in construction of other order provisions.

Milk caused to be moved from the pool plant where it has been received previously to another pool plant or to a nonpool plant should be considered as producer milk and retained in the pool even though it is not physically received at the first pool plant. Diversion of milk will promote efficiency in the marketing of milk temporarily not needed in the pool plant of usual receipt since it is frequently possible for such milk to be hauled directly from the farm to another pool plant or to a nonpool plant for disposition. These movements may occur frequently during the months of flush production.

Diversions of milk may be necessary also during the months of lowest production to accommodate temporary milk excesses during holiday periods or on weekends. Producer associations responsible for marketing the milk of members must be in a position, therefore, to divert some milk in all months of the year.

The diversion provisions should encourage regularity of delivery to pool plants when the milk is needed but not encourage an excessive amount of milk to become associated with the pool. Accordingly, the operator of a pool plant or a cooperative association should not be permitted to report as diverted in any month from September through March, and thus retain in the pool, that milk moved to a nonpool plant which is in excess of 12 days' deliveries during such month.

Other source milk. The term "other source milk" should be defined as all skim milk and butterfat utilized by a handler in his operations during the month, except milk and milk products in fluid form received from pool plants, inventory of milk and milk products in fluid form at the beginning of the month, and current receipts of producer milk. The term thus defined includes all skim milk and butterfat in nonfluid milk products from any source, including those produced at the handler's plant which are reprocessed, repackaged, or converted to other products during the month and receipts from producer-handlers. Defining other source milk in this manner will provide a general category of milk at pool plants which is not subject to pricing and pooling during the current month, insure uniformity of treatment of all handlers under the allocation and pricing provisions of the order regardless of the source of the milk, and be useful in the construction of the accounting and allocation provisions of the order.

Additional definitions such as "Act", "Secretary", "Person", "Department", "Cooperative association", "Distributing point", "Chicago butter price", "Nonfat dry milk price", and "Base zone" should be included in the order for brevity and clarity in the application of various order provisions. They are self-explanatory.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified as either Class I milk or Class II milk according to the form in which, or the purpose for which, the skim milk and butterfat were used.

Milk produced for the market is disposed of in a wide variety of forms containing different proportions of skim milk and butterfat which may vary greatly from those contained in milk as it is received from the farm. There is a substantial difference between the market value of a pound of fluid skim milk and a pound of butterfat for use in a given class of utilization. Different handlers use different proportions of skim milk and butterfat within a given class and as between classes. A system of accounting for skim milk and butterfat separately, therefore, is desirable in this market to provide uniform pricing of milk to handlers in accordance with the use of its component parts of skim milk and butterfat, and for returning to producers a price in accordance with their respective uses.

Milk and milk products are received at pool plants not only from producers but also from other handlers and nonpool sources. Milk from all such sources often is commingled in the handler's plant. It is necessary to classify the skim milk and butterfat in all receipts of milk and milk products as a basis for determining the proper classification of producer milk under the classified-pricing plan.

The extra cost incurred by producers in producing quality milk and delivering it to the market justifies a price for milk for fluid consumption higher than the price of milk used in manufactured products. Milk for fluid distribution should be classified and priced at this higher level to provide the necessary incentive to producers, through the uniform price, to encourage the production and delivery of milk needed for such use plus the necessary reserve to cover daily, weekly, and even monthly fluctuations in fluid milk sales by handlers.

Class I milk should be defined to include all butterfat and skim milk (including the skim milk used to produce concentrated milk, reconstituted or fortified milk, skim milk and milk products) disposed of in various fluid forms for human consumption and any other skim milk and butterfat not specifically accounted for by the handler as Class II milk (see Class I milk definition in the attached order, § 1028.31). The prod-

ucts included in Class I milk are disposed of to consumers in fluid form and are required by the health authorities in the marketing area to be made from milk or milk products from approved sources.

Fluid milk products such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, are included in the Class I milk definition. Products such as evaporated or condensed milk packaged in hermetically sealed cans are not considered to be concentrated milk.

Milk in excess of Class I uses at any time must be manufactured by the handler or disposed of to other plants for processing into manufactured products. These products are less perishable than Class I milk items and must compete in the market place with similar products made from unapproved milk. Milk so used should be classified as Class II milk and priced according to its value for use in such products. Accordingly, Class II milk is defined to include all skim milk and butterfat used to produce manufactured milk products, in inventory of fluid milk items, disposed of for animal feed, in shrinkage and dumped (skim milk only). Class II milk would include the skim milk and butterfat used to produce such products as butter, cheese (including cottage cheese), dried milk and skim milk, serated cream products, ice cream, ice cream mix, other frozen desserts and mixes, evaporated or condensed milk, and sterilized products packaged in hermetically sealed metal containers. Cream placed in storage and frozen for commercial use should be Class II milk because such cream is primarily converted into for ice cream and other manufactured products. Frozen cream removed from storage and other Class II products from any source, including those produced at the plant, which are repackaged, reprocessed and converted to another product in the plant during the month, should be considered as a receipt of other source milk during such month and assigned first to Class II milk under the allocation procedures hereinafter provided.

Limited quantities of excess skim milk and certain fluid milk items, such as route returns, may need to be disposed of by handlers as animal feed. Disposition for animal feed as Class II milk affords a means of disposal of certain items which may not be profitably utilized or disposed of for any other purpose. It is sometimes necessary, also, for handlers to dispose of small volumes of skim milk by dumping. Such skim milk will be classified as Class II milk if the handler reports to the market administrator, in the manner prescribed by the order, the dumping date and amount to be dumped, or if required by the market administrator, provides an advance notice of dumping which will afford the market administrator reasonable time to check such amount prior to dumping. No provision should be made for classifying as Class II milk, butterfat which may be dumped. Butterfat can be accumulated in the form of cream and stored to make possible efficient manufacture or movement to manufacturing outlets.

Because plant loss represents a disappearance of milk for which the handler must account but for which no direct return is realized by the handler, shrinkage should be considered as Class II milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records. A maximum shrinkage allowance of one-half percent of the total volume of milk physically received from producers at the pool plant should be provided with an additional allowance of one-and-one-half percent to the pool plant at which such milk is processed. In addition, shrinkage appropriately associated with the processing of other source milk should be allowed. Plants operated in a reasonably efficient manner, for which accurate records are maintained, should not have total plant loss in excess of the maximums provided. Any shrinkage shown by plants in excess of these respective maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and to encourage the maintenance of adequate records and the efficient handling of producer milk.

In order to determine the amount of shrinkage associated with the handling of producer milk, recognizing the different functions performed at pool plants, a method for the proration of shrinkage is necessary. Provision should be made, therefore, to prorate gross shrinkage at pool plants to milk physically received from producers, net receipts from other pool plants and other source milk. Limited shrinkage may be expected in the handling of other source milk which is not received in bulk fluid form. To prorate shrinkage on the basis of total other source milk, which would include all manufactured products that may be reprocessed in the plant during the month, would associate an unreasonable proportion of the shrinkage with other source milk, particularly when the skim milk equivalent basis of accounting is followed. Skim milk and butterfat in manufactured products are accounted for on a "used-to-produce" basis, and any processing loss involved is included in the amount of skim milk and butterfat reported as used. The proration of shrinkage to other source milk, therefore, should be on the basis of such milk received in bulk fluid form.

To avoid duplication in shrinkage on interpool plant movements of milk, the proration of shrinkage is based on the amount received in excess of the amount transferred to other pool plants. The allowance on milk diverted between pool plants should accrue to the pool plant where physically received. On milk received at a pool plant and transferred in bulk to another plant the transferor-plant should be permitted actual shrinkage up to a maximum of one-half percent thereof. No shrinkage should be allowed on producer milk diverted to nonpool plants.

The accounting for skim milk in manufactured products should be based on the pounds of fluid skim milk required to produce such products. The skim milk and butterfat content in most products received and disposed of by handlers can be ascertained through recognized testing procedures. Certain products, in the form of condensed skim milk and other concentrated items, present a more difficult problem of accounting since some of the water contained in the milk has been removed. The respective amounts of skim milk and butterfat represented by these products can be ascertained through appropriate plant records if manufactured in a pool plant. In the absence of adequate records, and in the case of such products received from other plants, it is necessary to determine the amounts of skim milk and butterfat represented by the use of standard conversion factors.

Condensed skim milk or nonfat dry milk may be used for reconstituting certain fluid milk items or to fortify skim milk drinks. The solids so derived are required by the applicable health regulations to be made from Grade A milk and therefore should be classified as Class I milk when disposed of in fluid items, in the same manner as all other milk solids in Class I milk. There is no apparent reason why one portion of the nonfat milk solids contained in Class I items should be classified differently from another portion. The pounds of skim milk disposed of in any reconstituted or fortified fluid milk item therefore are accounted for as the amount of nonfat milk solids contained in such product plus the water content normally associated with such solids in the form of whole milk. To promote uniformity in the cost of milk among handlers and to effectuate the allocation of current receipts of producer milk to Class I utilization to the fullest extent, the skim milk in all other source milk should be accounted for on the fluid skim equivalent basis.

Skim milk and butterfat used to produce manufactured products should be considered to be disposed of when so used. The sale of such products need not be shown on monthly reports of receipts and utilization. Handlers must maintain stock records on such products, however, to permit proper verification of utilization. Class II products from any source used in the plant during the month must be reported as a receipt of other source milk. This will assist further to maintain priority of assignment of current receipts of producer milk to Class I utilization.

Each handler is held responsible for a full accounting of all his receipts of skim milk and butterfat in any form. A handler who first receives milk from producers is responsible for establishing the classification of, and making payment for, such milk. Fixing responsibility in this manner is necessary to administer effectively the provisions of the order.

Except for such limited quantities of shrinkage, which under certain conditions (already described) may be classified in Class II, all skim milk and butterfat for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to han-

dlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk. Thus, the burden of proof is placed on the handler to establish the utilization of any milk as other than Class I milk.

Interplant movements. Except for certain specified Class II uses, skim milk and butterfat in fluid form should be classified as Class I milk when disposed of from the pool plant. Some fluid items, however, may be disposed of to other plants for conversion into Class II milk products. Under specified circumstances classification may and should be determined according to utilization in the plant to which transferred or diverted.

Class I milk items transferred, or producer milk diverted, by a handler from a pool plant to another pool plant should be classified as Class I milk unless utilization as Class II milk is claimed for both plants on the handler reports submitted for the month to the market administrator and sufficient Class II utilization is available at the transfereeplant for such assignment after prior allocation of shrinkage and other source milk. If other source milk had been received at the transferor-plant during the month, the skim milk and butterfat moved should be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants.

Similar items transferred or diverted from a pool plant to a producer-handler should be Class I milk because the milk may be presumed, by the nature of producer-handler operations, to be needed for fluid disposition. Provision should be made for any milk received at a pool plant from the farm or plant of a producer-handler to be considered as other source milk at the pool plant. Without these provisions, producer-handlers could depend on producers under the order to carry the necessary reserve supply associated with their Class I sales without sharing such sales with producers, thus affecting adversely the proceeds due pool producers.

Milk, skim milk or cream in bulk transferred or diverted from a pool plant to a nonpool plant located less than 300 miles (by nearest hard-surfaced highway) from the County Courthouse in Bloomington, Illinois, should be classified as Class I milk unless the following conditions are met:

(1) The handler reports such milk as Class II milk, (2) the operator of the nonpool plant maintains and makes available, as requested by the market administrator, his books and records for verification of Class II utilization, and (3) the Class I milk (as defined in the order) disposed of from the transferee nonpool plant does not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers approved to supply Grade A milk who are regularly associated with such plant plus receipts of packaged fluid milk items from plants fully regulated by other Federal orders (including fluid cream from Chicago or Milwaukee order plants where classified as "Class II milk" under such orders).

If Class I milk disposed of from the nonpool plant exceeds such sum of receipts, provision should be made to classify as Class I milk an amount of the transferred or diverted milk equivalent to such difference. Such remaining Class I sales, however, should not result in duplication relative to the classification of milk transferred to the nonpool plant from plants regulated by this and other Federal orders. Therefore, the amount of bulk milk moved to such plant and classified as Class I milk from any regulated market should be not less than that market's pro rata share of the remaining Class I sales in such nonpool plant. This method of classification and proration of Class I sales provides a reasonable basis for assigning Class I milk among markets in the case of movements to a common nonpool plant from more than one regulated market.

Milk and skim milk moved by handlers to nonpool plants located more than 300 miles from the County Courthouse, Bloomington, Illinois, should be Class I milk. If milk or skim milk moves such distances in fluid form it normally would not be for Class II uses. Adequate manufacturing facilities for local supplies are available and the Central Illinois handlers normally dispose of reserve milk to manufacturing facilities located within a 300-mile radius from the market. It would not be administratively feasible, or economically justifiable, for the market administrator to be required to verify the ultimate uses of shipments made to nonpool plants beyond this prescribed area. The automatic classification as Class I milk will preclude the necessity for such verification. Cream is shipped greater distances from this market on occasion, however, for ice cream manufacture, and provision is made for a Class II classification regardless of distance involved if with prior notice of shipment furnished to the market administrator, the cream is labeled and invoiced for manufacturing use only and the recipient plant is not engaged in the route distribution of milk.

The recommended method of classifying transfers and diversions of milk to nonpool plants will facilitate the primary function of such provisions of promoting an orderly disposal of reserve supplies, and at the same time assure that milk moved to nonpool plants will be classified and priced in accordance with the form in which, or the purpose for which, it is used. This will provide a significant degree of protection to the market supply by removing an incentive to withdraw milk during periods of short supply.

Allocation. The class prices apply only to producer milk. It is necessary, therefore, when skim milk or butterfat other than that in producer milk is received by the handler, to determine the amount used in each class to be assigned to the producer milk.

Producer milk represents the primary and regularly available supply for fluid consumption in the marketing area. Current receipts of producer milk should be given priority over other source milk in the allocation of Class I utilization at pool plants in order to insure regularity of supply and for effective application of the classified pricing plan. If the order permitted handlers to obtain unpriced, other source milk for Class I uses whenever it was advantageous to do so while producer milk in the plant was assigned to Class II, returns to producers at a given level of class prices would be adversely affected, and the order would not be as effective in carrying out the purpose of the Act of insuring an adequate and dependable supply of milk at reasonable price levels.

In general, the allocation procedure requires that the skim milk and butterfat, respectively, remaining in each pool plant after making the following deductions from gross utilization starting with Class II milk, be assigned to producer milk unless otherwise noted:

(a) Other source milk in the form of Class II milk products;

(b) Other source milk in the form of fluid items, except certain fluid milk by-products and cream received in consumer-type packages and priced as Class I milk (or its equivalent) under a Federal order;

(c) Other source milk in the form of fluid milk by-products and cream received in consumer-type packages subject to Class I pricing or its equivalent under another Federal order (deductible from Class I milk);

(d) Receipts from other pool plants (according to classification);

(e) Beginning inventory; and

(f) Overage.

Separate allocation is provided for other source milk received under varying circumstances to facilitate the application of the compensatory payment provisions of the order and to provide flexibility in plant operations. Provision is made to allocate to Class I milk certain packaged fluid milk by-products subject to Class I pricing (or its equivalent) under another Federal order. This will have the effect of giving the same treatment to such items moved from a plant under another Federal order whether distributed directly to consumers in the marketing area from such plant, as is sometimes the case in this market, or imported through a pool plant.

For accounting purposes ending inventory of fluid milk items is classified as Class II milk. Beginning inventory of such products is considered as a receipt and therefore must be subtracted in the allocation procedure. This is done following the subtraction of transfers from other pool plants so as not to interfere with the mechanics of classifying such transfers, and to facilitate the reclassification of inventory which may be assignable to Class I milk during the month.

It was stated in the exceptions that a 5 percent assignment of producer milk to Class II utilization prior to the Class II assignment of other source milk should be made. While Central Illinois handlers frequently find it necessary to utilize receipts of bulk milk from outside sources in Class I milk, such other source milk is purchased and so used only when producer milk is insufficient for the particular handler's Class I uses. Other source milk may be regarded, therefore, as a supplemental rather than a regular, year-round supply. This type of purchase represents an exigency involved in conducting a fluid milk business and

frequently is a source of milk preferred by handlers, even at the added cost to be expected, in lieu of the maintenance of additional producer supplies on a year-round basis. No special consideration should be granted which, in minimizing or perhaps eliminating this exigency, would tend to favor those handlers who prefer to buy short from producers and to import the needed supplies. It should be noted in this connection that no compensatory payment is applied on milk purchased as Class I milk from another regulated market. Further, that in the case of milk purchased from unregulated Grade A sources such payment is computed at only the difference between the uniform and Class I prices in the months of substantial market need for outside milk.

(c) *The determination and levels of class prices—Class I price.* For the first 18 months, the minimum Class I price per hundredweight each month for milk containing 3.5 percent butterfat received at plants located in the "base zone" (counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon and Shelby) should be the Chicago Federal order 55–70 mile zone Class I price for the month plus 40 cents. The minimum Class I price should be 6 cents less at each plant located in Champaign, DeWitt, Douglas, Edgar, Ford, Fulton, Knox, Livingston, McDonough, McLean, Marshall, Mason, Peoria, Piatt, Stark, Tazewell, Vermilion, Warren and Woodford Counties. The minimum Class I price at regulated plants located outside the marketing area should be the base zone price minus appropriate location adjustments (discussed below).

At the hearing, several interested parties proposed Class I price provisions for a Central Illinois order. Proponent producers proposed a formula which would result in a Class I price for the base zone approximately 54 cents higher than the minimum Class I price for the month announced for the 55–70 mile zone under the Chicago order. Certain proprietary handlers offered various price proposals under which the Class I price for such base zone would be established at 20 cents, or less, above such Chicago minimum Class I price. Another witness testified that the Central Illinois Class I price should not be higher than the Chicago order Class I price plus the cost involved in moving milk from the Chicago area to Central Illinois area plants.

It is concluded that a reasonable minimum level of Class I prices for the Central Illinois market would be one which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers who are, or who may become, regular suppliers of this market sufficient to induce and maintain an adequate, but not excessive, supply of quality milk to meet the Class I requirements of consumers in the marketing area, including the necessary reserves to meet normal fluctuations in sales. Class I prices should be in alignment also with those prevailing in other nearby markets and should not be fixed at levels which exceed the prices of milk of acceptable quality and regular availability obtained from alternative sources.

The Central Illinois market currently is one of deficit supply, i.e., local dairy farmers do not produce sufficient Grade A milk to satisfy the total Class I milk requirements of the market. Springfield and some other principal communities within the Central Illinois area are served at wholesale and retail with substantial quantities of packaged Class I milk from a pool plant under the Chicago order located at Chemung, Illinois. Other Chicago plants also distribute milk on routes in the Central Illinois area. Also, handlers whose plants are located within the Central Illinois area import significant volumes of Grade A milk from distant, alternative supply sources, such as Madison and Platteville, Wisconsin.

The average cost of transporting bulk milk from several supply sources to principal points in the marketing area is approximately 1.5 cents per hundredweight for each ten miles traveled. While transportation costs vary depending on many factors, including size of load, such rate is reasonably representative of the per hundredweight cost of transporting bulk milk to principal communities in the Central Illinois area from distant plant sources and, as later discussed, is adopted as an appropriate rate of location adjustment for pricing milk in this market.

The hauling cost to Springfield from Chemung computed on the basis of the bulk milk rate indicated above would be 33 cents, although it might be expected that the hauling cost on packaged milk would be slightly higher.

The plant at Madison, Wisconsin, is located within the heaviest milk producing region of the country. It would not be reasonably assumed that an alternative supply of Grade A milk (or its equivalent) for the Central Illinois area could be obtained with regularity at lesser cost from any other region. An appropriate basis for determining the level of minimum prices to dairy farmers for bottling quality milk at the Madison location is the applicable zone price for Class I milk pursuant to Chicago milk order No. 41. Not including any charge for handling, the cost of transporting milk to plants in the base zone of the Central Illinois marketing area from Madison, Wisconsin, may be computed, on the basis of the same rate, at approximately 40 cents per hundredweight.

A level of Class I prices for plants located in the base zone of 40 cents over the Chicago Federal order 55–70 mile zone minimum Class I price for the month is warranted in light of the various costs and prices associated with the importation of milk from alternative areas of supply. Pursuant to this formula, the 1958 annual average minimum Class I price would have been $4.12, and the 1959 price would have been $4.08, at plants in the base zone. (Official notice is taken of the Chicago Federal order Class I price announcements for the months of August through December 1959.) For further comparison, the St. Louis minimum Class I prices for 1958 and 1959 averaged $4.09 and $4.10, respectively, for the zone in which Springfield (in the base zone) is located.

The Class I price at plants located in those counties of the marketing area not a part of the base zone should be 6 cents less than the Class I price for plants located in the base zone. The counties not included in the base zone are somewhat closer to alternative supply sources. While handlers with plants located in the lower price zone of the marketing area (particularly in Peoria, Pekin and Bloomington) distribute milk in certain counties in route competition with handlers operating plants located in the base zone, the cost of moving milk from Peoria, Pekin and Bloomington to the main areas of competition with base zone milk should offset the difference in Class I price levels. At regulated plants outside the marketing area Class I prices also will be adjusted according to location.

It is concluded that the interests of dairy farmers serving this market will be promoted by the establishment of a uniform basis of pricing and pooling, regardless of source or distance, for all Grade A milk purchased by handlers for fluid distribution. Such basis of pricing should take into account, however, not only the immediate supply and demand conditions but also the prevailing minimum prices determined, under similar price criteria, as reasonable in nearby markets both north and south of the Central Illinois marketing area. To provide a higher level of Class I prices, as proposed by proponent producers, would expose the Central Illinois producers and handlers to possible loss of market sales since handlers under other Federal orders are in position to, and do, distribute milk on routes in various communities in Central Illinois. A lower level of Class I prices than that adopted would represent less than minimum economic value of the milk.

Class II price. The Class II price per hundredweight of milk, containing 3.5 percent butterfat should be the average of prices paid by selected milk manufacturing plants for ungraded milk.

The proponent producer association proposed the type of formula which is adopted herein as an appropriate formula for pricing Class II milk. The same formula, which represents the average pay price of 12 selected Wisconsin and Michigan condenseries, is used to determine the Chicago order Class III price and for the 12-month period ending with August 1959 resulted in a price of $3.00. (Official notice is taken of the Chicago order Class III price for August 1959.) One proprietary handler proposed the Chicago order Class IV price formula with seasonal adjustments. The average Class II price pursuant to the latter proposal would have been $2.83 for the same 12-month period. Another proprietary handler proposed a Class II price based on the average "pay price" of seven local manufacturing plants. Price data were available in the record for only six of the seven plants suggested. The average of the pay prices of such plants for the 12-month period was $2.96.

Some milk in excess of actual Class I requirements is necessary to maintain an adequate supply of milk on an annual basis. The price for such excess milk

should be maintained at the highest level consistent with its value for use in manufactured products. The price should not be set at a level that will encourage handlers to procure supplies of Grade A milk intended for manufacturing purposes.

The average price paid by Illinois condenseries during 1959 was $3.15 per hundredweight of milk containing 3.72 percent butterfat, or, adjusted by the Class II butterfat differential contained herein, approximately $3.00 for milk of 3.5 percent butterfat. (Official notice is taken of such prices published for July and August 1959 in the "Evaporated, Condensed, and Dry Milk Report", A.M.S., USDA.) This average condensery pay price approximates the basic formula price computed for the same period.

For the most part the relatively small volume of Grade A milk received from dairy farmers which is not disposed of for Class I purposes is used in the manufacture of cottage cheese and ice cream. There is no reason to believe from the record that milk for these uses, or in any other main manufacturing use to which milk in this market might be put, would be worth less than milk purchased by condenseries.

Butterfat differentials. Skim milk and butterfat are accounted for separately for classification purposes. Class and uniform prices are established on a "standard" test of 3.5 percent butterfat. Therefore, it will be necessary to adjust Class I and Class II prices to the average butterfat for the class, and uniform prices to the tests of milk delivered by individual producers, to reflect differences in value due to variations in butterfat content from the 3.5 percent standard.

The values resulting from multiplying the average price of 92-score Chicago butter by 0.125 for Class I milk and 0.115 for Class II milk will provide an appropriate basis for adjusting Class I and Class II prices for each one-tenth percent variation in butterfat content. The resulting differentials should be in reasonable alignment with those in orders regulating the handling of milk in nearby Federal markets where milksheds are adjacent to or overlap that of the Central Illinois market.

The butterfat differential to producers should correspond to the weighted average of the values of butterfat used in the two classes. This follows the principle of uniform prices to all producers and will reflect promptly for pricing purposes any changes in the use of butterfat in each class.

Location differentials. A schedule of location differentials should be provided to adjust Class I prices according to the location of the plant from which milk is moved to the marketing area.

Milk at farms or at plants has a progressively lower value with respect to the Central Illinois market as such farms or plants are located farther from the market. This difference in value is related principally to the cost of transporting milk from the respective locations to the market. To the extent that milk is received from producers at a distant plant and brought to the marketing area by a handler, the handler has assumed a transportation cost which otherwise might be borne by producers. Accordingly, the Class I price should be adjusted downward at such plant to compensate the handler for the cost of hauling milk to the marketing area, and to provide uniformity in Class I pricing to handlers at the marketing area. Such application of location adjustments results in the pricing of Class I milk at all plants in relation to its value for consumption in the marketing area after taking the transportation factor into account.

The order should contain appropriate provisions to recognize such differences in value at different locations in relation to the market. This may be accomplished by including a schedule of location adjustments applicable to plants in accordance with their distances from Springfield and Toledo, Illinois, whichever is nearer the particular plant.

It is economically more feasible to supply the fluid milk needs of the market from those farms or plants nearest the market before bringing in milk from more distant plants. Location adjustments at supply-type plants should apply, therefore, to that skim milk and butterfat moved to a pool plant in fluid form which is assignable to Class I milk, after first assigning to the available Class I in the transferee-plant most of the milk received directly from producers and receipts of Class I milk from other pool plants at which no adjustment applies. The location adjustment provisions should apply also to Class I milk disposed of in the marketing area on routes from distant distributing plants.

An average location differential rate of 1.5 cents for each 10 miles, or major fraction thereof, should be used for adjusting Class I prices. As previously stated, this rate reflects experience relative to the costs of moving milk to the marketing area from distant points by efficient means.

To maintain equity in pricing among distributing handlers in the presence of an irregularly-shaped marketing area in relation to the most practical basing points, a location differential of 6 cents per hundredweight is employed for all plants located in the marketing area but outside the defined "base zone" (see marketing area definition). Also, for similar reasons, no location adjustments are applied at plants located outside the marketing area and less than 70 miles from the basing points of Springfield and Toledo. This pattern of price adjustments provides reasonable uniformity of Class I prices at various plant locations, whether inside or outside the marketing area, in relation to the basing points.

No location adjustments should be allowed to plants on Class II milk. Because of the low cost per hundredweight of milk involved in transporting the finished products of this class, there is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk from dairy farmers.

One handler excepted to the application of location adjustments to only that portion of milk received through outlying supply plants which is required for Class I utilization, after the assignment of direct-shipped milk to such class of use. Except for a minimum allowance (up to 10 percent of producer milk receipts at the transferee plant) to take account of normal variations within the month in quantities needed from supply plants to cover Class I sales and an operating reserve, the costs involved in bringing milk for Class II milk use from country plant locations should not be assessed against all producers (as a deduction from pool proceeds), which would be the result of allowing location differentials on milk moved through country plants to marketing area plants for Class II use under the alternatives suggested by the exception.

Payments on unpriced milk. The order should provide for payments to the producer-settlement fund with respect to other source milk allocated to Class I at pool plants and for similar payments by partially regulated nonpool plants on Class I milk disposed of on routes in the marketing area. The rate of payment on such milk each month should be equal to the difference between the Class I and Class II prices, except that for the months of September through January, the rate of payment on other source milk qualified for labeling as Grade A milk should be the difference between the Class I and uniform price to producers.

Basically, all other source milk which might be utilized for Class I milk in the marketing area is produced as part of a supply intended primarily to meet the demand for milk for fluid consumption in some area other than the Central Illinois marketing area or produced for manufacturing outlets, but not used for such purposes in the area for which it was produced. If part of the regular supply of another fluid milk market, it could be only milk in excess of the amount needed for fluid disposition in such market.

If unregulated plant operators were allowed to dispose of surplus milk in the regulated marketing area, either through pool plants or directly to consumers, without some compensating or neutralizing provision in the order, the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning a reasonable level of prices to the producers of milk for the regulated marketing area would be defeated. Inefficiency in the marketing of milk would be encouraged because there would be incentive for the regulated handlers to obtain milk for Class I uses not from the regular and normal sources of supply but from sources of supply generated solely as a result of the price advantage created for unregulated milk by the regulation itself. Providing for some method of compensating for, or neutralizing the effect of, the advantage created for unregulated milk is therefore a necessary provision of this order.

There may be other situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk to the marketing area and yet it would be neither necessary nor desirable in terms of effective regulation to bring the plants fully under regulation. This would be true with respect to shipments of milk to pool plants for the purpose of converting it into manufactured products. Also, milk may be disposed of in the regulated marketing area as Class I milk from plants which are not primarily, or even regularly, engaged in supplying the marketing area. If relatively small, incidental or accidental shipments of milk into the marketing area would bring under total regulation all the milk at the plant from which such shipments are made, undue hardship could result to the operator of such plant and for the farmers delivering the milk involved. Compensatory payments are necessary to provide a means by which full regulation of the handling of milk under these conditions may be avoided and, at the same time, the integrity of classified pricing and marketwise equalization of returns which are necessary to insure orderly marketing in this area may be maintained.

The proximity of this market to sources of milk not under a classified-price plan and the opportunities available to obtain milk at prices reflecting its value as surplus (approximating the Class II price under the order) must be taken into account in this connection. The rate of payment on other source milk allocated to Class I generally should be the difference between the Class II price and the Class I price adjusted (by the same rate as is applied at pool plants) to the location of the plant at which such other source milk was received from farmers. During the months of September through January, however, the milk supplies in this region tend to be somewhat shorter than for other months. It is not likely that other source fluid milk of Grade A quality will be readily available to the market at surplus prices. It reasonably may be expected that during such months such milk would not be available from unregulated sources at prices appreciably less than the level of the uniform price under the order. Therefore, compensation payments during these months on other source milk eligible for Grade A labeling should be the difference between the uniform price to producers and the Class I price (both prices adjusted to the location of the plant from which such other source milk is supplied). The relationship between the supply and demand for milk in the market in the September through January period tends to fluctuate from year-to-year according to marketing conditions.

These conditions may be expected to prevail generally in surrounding markets which are potential sources of supply of unregulated milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months in accordance with the relationship of Class I milk to the total milk pooled and will tend to reflect conditions in the area from which other source milk of this kind may be obtained. The rates herein proposed are those which will best effectuate the Act under current marketing conditions in this area.

Other source milk in the form of concentrated milk products should be considered to be from a source at the same location as the plant where used. In the case of these products it would be extremely difficult and at times impossible to determine the plant of origin. They may pass through several hands between the manufacturer and ultimate user and the output of many plants may be commingled by a broker or jobber from whom the handler acquires the products. The administrative difficulties involved make it impracticable to adjust the payments associated with any such products based on location of source.

All funds collected from such compensatory payments should be added to the producer-settlement fund. The pool handler receiving other source milk on which a payment accrues should be obligated to make the compensatory payments to the producer-settlement fund. There will be no difference in actual amount so paid for milk whether the payment is required of the pool handler or of the operator of the unregulated plant from which the other source milk was obtained. Because the pool handler makes the actual distribution of the milk in the marketing area, and because he reports the utilization to the market administrator, he is, from an administrative view, the logical person to make the payment.

The integrity of the regulation can be maintained by providing an alternative method of determining compensatory payments at a distributing plant which has sales of Class I milk in the marketing area on routes but which fails to qualify as a pool plant. Subject to proper reporting and the maintenance of adequate records, the operator of such plant should be given an opportunity to choose between payment into the producer-settlement fund of (1) an amount equal to the volume of Class I milk disposed of in the marketing area at the same rates as apply to unpriced other source milk allocated to Class I at pool plants, or (2) the amount by which total payments to dairy farmers at such nonpool plant are less than the total value of the same milk computed on the basis of the classifications and prices applicable at pool plants.

If the partially regulated handler elects to make payments under the first option, the regulation would be protected in the same manner and to the same extent as is provided with respect to compensatory payments on other source milk at pool plants.

If such handler chooses to pay the full utilization value of his milk either directly to his own farmers or by a combination of payments to his farmers and to the producer-settlement fund, he will not have any advantage in terms of the minimum order class prices on his sales of Class I milk in the marketing area. His total minimum obligation for milk will be determined in exactly the same manner as if he were a fully regulated handler.

Under this option, the operator of the nonpool plant would be required to file a complete report of receipts and utilization. From such reports, subject to audit, the value of his milk would be computed at the class prices, adjusted for location and butterfat content, in the same manner as for a pool plant. From this utilization value the market administrator would subtract the payments to the Grade A dairy farmers who constitute the regular supply of milk for the nonpool plant as verified from the producer payroll. Only such payments would be allowed as had been made to such farmers by the 20th day following the end of the month. The payment would be the gross amount paid to such farmers for milk at the nonpool plant. Bona fide deductions for supplies and services, such as hauling, would be allowed as authorized by the dairy farmer.

Affording the latter option to partially regulated nonpool plants will protect adequately the regulatory plan in this market. None of the operators to which this option may apply regularly obtain milk for such plants from dairy farmers located in a supply area that overlaps to any significant extent the supply area of plants to be fully regulated under the order. The option to pay directly to dairy farmers who regularly supply such nonpool plants with milk at the full utilization value of such milk in accordance with the order, and therefore, will not place the operators of pool plants at a competitive disadvantage in the procurement of their milk supply. Also, under the present organization of the market there will be no significant diversion of the revenue derived from the Class I sales in the marketing area to farmers only incidentally associated with the market at the expense of pool producers of milk, for which minimum class prices are established, who are relied upon to produce an adequate and dependable supply of approved milk for the marketing area.

The assessment of administrative expense should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between the class prices on his in-area sales he should be required to pay administrative expense only on such quantities. If he elects the payment based on the utilization value of his milk he should pay administrative expense on his entire receipts of milk from Grade A dairy farmers and any other receipts allocated to Class I milk the same as is required of pool handlers. Obviously, the latter option necessitates as much verification of receipts and utilization by the market administrator as is the case at a pool plant. Such verification might well include the checking of weights and butterfat tests of receipts from dairy farmers and products sold, as well as a complete audit of the books and records of such plant operations.

A proposal was made that no compensatory payments be required on other source milk received at a pool plant during any month when receipts of producer milk are below 110 percent of Class I

sales in the preceding month. Such a provision would not be to the best interest of the market because the way would be open for handlers to limit their purchases of producer milk in the current month and thereby bring about an uneconomical procurement pattern for the market and an uncertain marketing situation for local dairy farmers.

(d) *Distribution of proceeds to producers.* All Grade A milk produced for the marketing area is eligible for sale in fluid form as milk and cream in all parts of the marketing area. However, at times relatively greater proportions of the reserve milk supply are concentrated in certain plants than in other plants. This situation would increase in the future if certain supplies now considered temporary find definite and continuing association with this market. The use of the marketwide pool, under which the lower value of reserve supplies are distributed proportionately among all qualified producers, will permit producers to receive a uniform price (with appropriate adjustments for location and differences in butterfat content of milk produced) and at the same time permit, either at local plants or at country plant locations, the efficient handling of milk when it is not needed for fluid distribution. A marketwide pool also will assist all interested handlers to obtain the necessary supplies to handle large blocks of bid business, such as that offered by military installations and other public institutions, without upsetting the market at such time as this type of business might shift from one handler to another. The uncertainty for producers created when a handler's projected requirements decrease markedly may be an important contributor to unstable marketing conditions.

The facilities in the plants of Central Illinois handlers for handling reserve supplies of producer milk vary but on the whole are quite limited. Some pool plants are equipped to make such products as cottage cheese, butter, and ice cream, and in some cases receive ungraded as well as graded milk for these uses. None of the pool plants is equipped to make evaporated milk, cheddar cheese or other manufactured products which are frequently the principal use outlets for the seasonal reserve supplies of fluid markets. Because many plants do not have facilities for processing all their reserve milk, the adoption of individual-handler pools, under which plant operators on a Class I basis could pay higher prices to producers than those who assume responsibility for disposing of temporary and seasonal reserve supplies of the market, automatically would deter handlers from handling such milk or from equipping their plants for that purpose. The burden of carrying the temporary and seasonal excesses of milk would continue to be shouldered by only a part of the producers who share in the year around Class I sales of the market.

A marketwide pool will aid the market further by making it possible to retain qualified producers during periods of seasonal surplus (by permitting them to receive the marketwide uniform price); hence encouraging the availability of such milk to fill the Class I requirements at other seasons, and insuring stability and the efficient distribution of supplies as needed by individual handlers throughout the year.

Handler's obligation for producer milk and producer-settlement fund. Because producers will receive payment at the rate of the marketwide uniform price each month and the payment due from each handler at the applicable class prices may be more or less than he is required to pay directly to producers or to cooperative associations, a producer-settlement fund should be established to equalize this difference.

The handler's total obligation to producers is determined by applying the class prices for skim milk and butterfat to such components of producer milk at his pool plants and adding the obligations, if any, resulting from compensatory payments on other source milk and from the reclassification of beginning inventory (tentatively classified as Class II milk at the end of the preceding month) which is allocated to Class I milk for the month. The order should provide a method for the determination and reclassification of inventory from producer milk to result in a cost of such milk identical with the cost of current receipts of producer milk and a determination and reclassification cost of inventory from unpriced other source milk identical with the compensatory payments on current receipts of unpriced other source milk. The allocation of inventory to producer and other source milk in the attached order follows the same allocation procedure as is used to determine the classification of producer milk. No reclassification charge will result on inventory from milk which originates from a plant under another Federal order which is priced as Class I milk under such order.

Each handler whose obligation for producer milk is greater than the amount he is required to pay producers at the applicable uniform prices should pay the difference into the producer-settlement fund and each handler whose obligation for producer milk is less than the applicable uniform price value should receive payment of the difference from this fund to enable him to pay his producers such uniform price. For administrative convenience, payments due any handler should be offset by payments due from such handler.

For efficient functioning of the producer-settlement fund a reasonable reserve is set aside at the end of each month to cover minor audit adjustments, delayed payments and other contingencies. The reserve, which is operated as a revolving fund and adjusted each month, is established in the attached order at not less than four or more than five cents per hundredweight of producer milk in the pool for the month.

As indicated elsewhere in this decision, compensatory payments received by the market administrator from any handler would be deposited in the producer-settlement fund. Such deposits would be included in the uniform price computation and thereby distributed to all producers.

Exception was taken to the computation of individual handler obligations on separate prices for skim milk and butterfat as the individual components of the announced class prices per hundredweight. It was contended that the class price per hundredweight adjusted by the class butterfat differential for the butterfat test of the class, should be used for the purpose of computing such obligations.

The computation of the pool, the effectuation of audit adjustments, and frequently the pricing of milk, skim milk, and cream of varying tests between handlers, may be facilitated, however, by the use of separate skim milk and butterfat prices in computing the handler's total obligation for milk, and, contrary to the exception taken, the amounts paid by the handler for the milk and its butterfat and skim milk components are identical under both computation methods. In view of this, it is concluded that § 1028.43 should be included in the order.

Payment to producers. Each handler should be required to pay each producer on or before the 20th day after the end of each month for milk received from such producer at not less than the applicable uniform price unless payment therefor is made to a cooperative association. Provision should be made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of such month, at not less than the Class II price for the preceding month rounded to the next lowest dollar or half-dollar.

Provision should be made for a cooperative association to receive payment for the producer milk which it causes to be delivered to a pool plant. The collection of monies with respect to milk of members and the blending of the proceeds from the sale of such milk, as provided by the Act, will tend to promote the orderly marketing of milk. Cooperative associations will be assisted in discharging their responsibility to their members and to the market. Such function can be accomplished more expediently if an association is enabled to collect payments for the sale of member milk. Each handler should be required, if requested in writing by a cooperative association which is authorized to collect payment for its member milk and which has furnished a written promise to reimburse the handler for any improper claims on the part of the cooperative, to pay such association an amount equal to the sum of the individual payments otherwise payable to such member-producers. Handlers should be required to make such payments to the cooperative association on or before the 28th day of the month for milk received during the first 15 days of the month, and to make the final settlement for milk received during the month on or before the 19th day of the following month.

Provision should be made for the handler, if authorized by the producer, to make bona fide deductions for goods or services furnished to, or for payments made on behalf of, the producer. At the time of final settlement for producer milk, the handler should be required to furnish to each producer a supporting

statement showing the pounds and butterfat test of milk received from him, the rate(s) of payment for such milk and a description of any deductions claimed by the handler.

In the event the cooperative is a handler as defined in the order and sells milk as an interhandler transaction to a proprietary handler, settlement by the handler with the cooperative should be at not less than the minimum class prices since that will be the basis upon which the cooperative, as a handler, will be required, in turn, to settle with the producer-settlement fund.

(e) *Other administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

(1) *Terms and definitions.* In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning throughout the order.

(2) *Market administrator.* Provision is made for the appointment by the Secretary of a market administrator to administer the order and to describe the powers and duties essential to the proper functioning of his office.

(3) *Records and reports.* Provisions are included in the order which notify handlers that they are required to maintain adequate records of their operations and to make the reports necessary to establish the proper classification and pricing of producer milk and payments due producers for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must be established for the announcement of prices by the market administrator.

Handlers should maintain and make available to the market administrator (i) all records and accounts of their operations, including financial records, and such facilities he may deem necessary to determine the accuracy of the information submitted by the handler, and (ii) any other information upon which the classification of producer milk depends. The market administrator likewise must be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

There may be instances in which a handler, wittingly or unwittingly, fails to report all receipts and/or sales of milk. In such cases, it is necessary for the market administrator to have access to the financial as well as other pertinent records as a means of discovering omissions or inaccuracies in accounting for milk under the order. The proper accounting for milk is an essential feature of an order; thus, it is necessary that the market administrator have access to any and all records which may be required for him to perform his duty properly. Broad authority is granted, in this respect, under the Agricultural Marketing Agreement Act of 1937, as amended.

It is necessary that handlers retain records to prove the utilization of the milk received from producers and proper payment therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time. The order should provide, however, for specific limitations of the time that handlers shall be required to retain their books and records and of the period of time in which obligations under the order should terminate. Provision made in this regard is identical in principal with the general amendment made to all milk orders in operation July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision, covering the retention of records and limitations of claims, is equally applicable in this situation and is adopted as a part of this decision.

If a handler fails to make the required reports or payments, his name should be publicly announced at the discretion of the market administrator. Such announcement is provided for by the Act, and it is concluded that its adoption will facilitate enforcement of the terms of the order.

(4) *Marketing services.* A provision should be made in the order for performance of marketing services for producers, such as verifying the weights and butterfat tests of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are performed. If a cooperative association is performing such services for its member producers, the market administrator will accept this in lieu of his own service.

Orderly marketing will be promoted through a marketing services program by assuring individual producers that payments received by them for their milk are in accordance with the pricing provisions of this order and accurately reflect the weights and tests of milk delivered. Complete verification requires that butterfat tests and weights of individual producers deliveries as reported by the handler are proved to be accurate.

Dissemination of current market information to all producers will promote efficiency in the production, utilization and marketing of milk and should be included in the order as an additional phase of the marketing services program.

A maximum deduction of five cents per hundredweight should enable the market administrator to perform the various marketing services for producers. This deduction will apply only to receipts of milk from those producers for whom he renders marketing services. If experience demonstrates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Any cooperative association of producers performing marketing services for its producer-members shall receive such deductions as the membership agreement authorizes, in lieu of the deduction from payments made to nonmember producers.

(5) *Expense of administration.* Each handler operating a pool plant should be required to pay the market administrator as his pro rata share of the cost of administering the order not more than four cents per hundredweight, or such lesser amount as the Secretary may prescribe, on (1) producer milk, and (2) other source milk which is classified as Class I, except other source milk subject to an expense of administration assessment under another Federal order. Handlers operating nonpool plants should be assessed, depending on the option chosen pursuant to § 1028.53 on quantities of other source milk disposed of as Class I milk in the marketing area on routes or on the total receipts of Grade A milk from dairy farmers at the plant (not subject to administrative expense under another order) and other source milk which would be classified as Class I if such plant were a pool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that cost of administration shall be financed through assessments on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers, including nonpool handlers, will be achieved by applying the administrative assessment in the above-described manner.

In view of the distances involved between plants and the cost of administering orders in comparable markets, a maximum assessment rate of four cents per hundredweight is necessary to meet the expenses of administration. Provisions should be made to enable the Secretary to reduce the rate of assessment below the maximum rate without necessitating an amendment to the order whenever experience reveals that a lesser rate will provide adequate revenue to administer the order properly.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed

marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in Central Illinois Marketing Area", and "Order Regulating the Handling of Milk in the Central Illinois Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order which will be published with this decision.

Referendum order; determination of representative period; and designation of referendum agent. It is hereby directed that a referendum be conducted among producers to determine whether the issuance of the attached order regulating the handling of milk in the Central Illinois marketing area, is approved or favored by the producers, as defined under the terms of the proposed order, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of January 1960 is hereby determined to be the representative period for the conduct of such referendum.

A. T. Radigan is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Issued at Washington, D.C., this 4th day of May 1960.

CLARENCE L. MILLER,
Assistant Secretary.

Order[1] *Regulating the Handling of Milk in the Central Illinois Marketing Area*

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AUTHORITY: §§ 1028.1 through 1028.75 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1028.0 Findings and determinations.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Central Illinois marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require (i) the payment by each handler, except as provided in subdivision (ii) of this subparagraph, as his pro rata share of such expense, of 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to (*a*) producer milk, and (*b*) other source milk allocated to Class I milk pursuant to § 1028.36(a) (2) and (3) and the corresponding step of § 1028.36(b), but excluding other source milk on which a corresponding type of assessment is payable under another Federal order, and (ii) the payment by each handler operating a nonpool plant from which a route is operated within the marketing area of the same rate of assessment in accordance with the provisions of § 1028.53.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Central Illinois marketing area shall be in conformity to, and in compliance with, the following terms and conditions:

DEFINITIONS

§ 1028.1 Meaning of terms.

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department" means the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association or any other business unit.

(e) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(1) To be qualified pursuant to the provisions of the Act of Congress of

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders have been met.

February 18, 1922, as amended, known as the "Capper-Volstead Act", and

(2) To be engaged in making collective sales, or marketing milk or its products for its members.

(f) "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

(g) "Central Illinois marketing area" (hereinafter referred to as the "marketing area", except as the context indicates reference to an area regulated by another order issued pursuant to the Act) means all territory geographically located within the perimeter boundaries of the area which includes the counties of Champaign, Christian, Coles, Cumberland, Douglas, De Witt, Edgar, Ford, Fulton, Knox, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Moultrie, Peoria, Piatt, Sangamon, Shelby, Stark, Tazewell, Vermilion, Warren and Woodford, including all municipal corporations and institutions and military installations (wholly or partially within such area) which are owned or operated by the Federal, State or local governments, all within the State of Illinois. "Base zone" means that portion of the marketing area which includes the counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon, and Shelby, including any such governmentally owned or operated institutions or facilities therein.

(h) "Distribution point" means any building, premises, facilities or equipment used primarily to hold or store bottled milk or milk products in finished form in transit for wholesale or retail distribution.

(i) "Plant" means the premises, buildings, facilities, and equipment constituting a single operating unit or establishment, whether owned or operated by one or more persons, at which are maintained stationary holding tanks for milk, facilities, and other equipment used during the month for the receiving, handling, or processing of milk or milk products: *Provided,* That this definition shall not include any distribution point or any building, premises, equipment, or facilities used primarily to transfer milk from one road vehicle to another.

(j) "Route" means delivery (including disposition from a plant store or dock or from a distribution point, and distribution by a vendor or vending machine) of Class I milk to a wholesale or retail stop, including any governmental institution, other than a plant: *Provided,* That this definition shall not be deemed to include distribution by a municipal or State-owned and operated institution or establishment which processes milk for fluid consumption in any month when such distribution is confined to the premises thereof or to the premises of another similarly owned and operated institution or establishment.

(k) *"Pool plant".* Subject to § 1028.54, "pool plant" means:

(1) Any plant, except the plant of a producer-handler, in which milk is processed or packaged and from which not less than 20 percent of the total disposition of Class I milk therefrom during the month is made within the marketing area on routes: *Provided,* That the total quantity of Class I milk disposed of from such plant during the month on routes is not less than 50 percent of such plant's total receipts for such month of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area;

(2) Any plant, other than a plant meeting the conditions of subparagraph (1) of this paragraph, from which not less than 50 percent of its receipts during the month of milk from dairy farmers meeting the conditions described in paragraph (o) of this section is shipped in fluid form as milk to any of the plants, institutions or facilities described in subdivisions (i), (ii), and (iii) of this subparagraph: *Provided,* That if such performance requirements are met during each of the months of September, October, November, December, and January, inclusive, such plant shall be a pool plant during each of the months of February through August, inclusive, next following, unless the handler's written request for nonpool plant status is submitted to the market administrator by the last day of any month, in which case nonpool status shall begin with the next month and subsequent renewal of pool status shall be achieved in the manner of a plant so qualifying for the first time:

(i) A plant meeting the conditions of subparagraph (1) of this paragraph;

(ii) Any other plant located within the marketing area from which during the month at least 20 percent of such plant's total disposition of Class I milk is made within the marketing area on routes; or

(iii) A governmentally owned and operated institution or facility located within the marketing area; and

(3) For each month from the effective date of this paragraph until September 1, 1960, any plant for which the handler requests pool plant status and for which the handler furnishes proof that such plant met for each month of the period September 1959 through January 1960, inclusive, the requirements for such month described prior to the proviso in subparagraph (2) of this paragraph.

(l) "Nonpool plant" means any milk receiving, manufacturing, processing, or bottling plant other than a pool plant.

(m) "Dairy farmer" means any person who produces milk which is delivered in bulk (tank or cans) to a plant.

(n) "Dairy farmer for other markets" means any dairy farmer with respect to his milk approved by a duly constituted health authority for disposition in fluid form received at a pool plant during the months of February through August of any year after 1960 from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler received milk other than under the conditions of paragraph (o)(3) of this section during any of the preceding months of September through January.

(o) "Producer" means any dairy farmer, except a producer-handler and any dairy farmer for other markets, who produces milk approved by a duly constituted health authority for the production of milk for fluid disposition, which milk is qualified for labeling and disposition as Grade A milk in the marketing area and is handled under any of the following conditions:

(1) Received at a pool plant directly from the farm;

(2) Diverted for the account of the operator of a pool plant to another pool plant; or

(3) Diverted from a pool plant to a nonpool plant for the account of the operator of a pool plant or a cooperative association: *Provided,* That for each of the months of September through March diversion of the milk of any such person shall be limited to 12 days (6 days in the case of every-other-day delivery) during such month: *And provided further,* That milk diverted to another pool plant or to a nonpool plant under the conditions of this paragraph shall be deemed (except for the purpose of § 1028.31(b)(6)) to have been received by the diverting handler at the location of the pool plant at which his milk was last received immediately prior to diversion.

(p) "Producer milk" or "milk received from producers" means skim milk and butterfat contained in milk of producers received by a handler under the conditions of paragraph (o) of this section.

(q) "Other source milk" means all skim milk and butterfat contained in or represented by:

(1) Receipts during the month of milk and milk products in any of the forms specified in § 1028.31(a) (1), (2) and (3), except (1) such milk and milk products received from pool plants, (2) producer milk, and (3) inventory of such milk and milk products at the beginning of the month; and

(2) Products other than those specified in § 1028.31(a) (1), (2), and (3), from any source (including those produced at the plant) which are repackaged, reprocessed or converted to another product in the plant or for which other utilization or disposition is not established.

(r) "Handler" means (a) any person in his capacity as the operator of a pool plant or of any other plant from which a route is operated within the marketing area, and (b) any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in paragraph (o)(3) of this section.

(s) "Producer-handler" means any person who processes and packages milk from his own farm production, who distributes some portion of such milk in the marketing area on a route, and who receives no milk or milk products in fluid form from other dairy farmers or from nonpool plants: *Provided,* That such person provides proof satisfactory to the market administrator that (1) the care and management of all the dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) is the personal enterprise of and at the personal risk of such person, and (2) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

MARKET ADMINISTRATOR

§ 1028.10 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 1028.11 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administer its terms and provisions;

(b) Receive, investigate and report to the Secretary complaints of violations;

(c) Make rules and regulations to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 1028.12 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters on duty, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon duty and conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 1028.66, the cost of his bond and of the bond of his employees, his own compensation and all other expenses, except those incurred under § 1028.67, necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary, and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments of each handler by audit or such other investigation, as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat depends;

(h) Publicly disclose at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Prepare and disseminate to producers, handlers and the public, general information as he deems necessary;

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following prices f.o.b. plant in the base zone: (1) the 6th day of each month, the Class I price on a 3.5 percent butterfat basis and butterfat differential for the month; and the Class II price on a 3.5 percent butterfat basis and butterfat differential for the preceding month; and (2) the 13th day of each month, the uniform price on a 3.5 percent butterfat basis and the producer butterfat differential for the preceding month; and

(k) On or before the 15th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of producer milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

REPORTS, RECORDS AND FACILITIES

§ 1028.20 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month, or not later than the close of business on the 9th day after the end of the month if the report required by this paragraph is delivered in person to the office of the market administrator, each handler, except a handler required to report pursuant to paragraph (b) of this section or § 1028.21(a), shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, the following:

(1) The total pounds of skim milk and butterfat contained in or represented by receipts of:

(i) Producer milk (including milk diverted under the conditions of § 1028.1 (o) (2) and (3);

(ii) Milk and milk products at his pool plant from other pool plants; and

(iii) Other source milk at his pool plant;

(2) Pool plant inventories of milk and milk products in fluid form at the beginning and end of the month;

(3) The utilization or disposition, as the case may be, of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement, as requested by the market administrator, of the disposition of Class I milk outside the marketing area and in each marketing area regulated by another Federal order issued pursuant to the Act; and

(4) The name and address of each producer (i) from whom milk was received for the first time, (ii) who discontinued deliveries of milk, or (iii) whose dairy farm permit is revoked by a duly constituted health authority, with the effective date of first delivery or discontinuance of delivery as a producer, as the case may be.

(b) Each handler operating a nonpool plant from which a route is operated within the marketing area shall report on or before the applicable date specified in paragraph (a) of this section, and in the manner prescribed by the market administrator, his receipts of milk from dairy farmers and from all other sources, and the utilization of such receipts for classification in accordance with the provisions of § 1028.30, including as a separate figure(s) the quantities disposed of on routes within the marketing area and within each marketing area regulated under another order issued pursuant to the Act.

§ 1028.21 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) (1) Each handler dumping skim milk pursuant to § 1028.31 (b) (2) shall mail or deliver to the market administrator within 48 hours following each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the skim milk and the person authorized to sign reports for the handler made pursuant to § 1028.20 (if the latter person is not available to sign the report within the 48-hour period the signature of the plant manager or plant superintendent shall be substituted on the report).

(2) Each handler dumping also shall give the market administrator, at the request of and in accordance with instructions issued by the market administrator, advance notice of intention to make such disposition and of the quantities involved.

(c) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 25th day after the end of the month, for each of his pool plants and for each plant subject to § 1028.53(b), his dairy farmer payroll for such month which shall show: (i) The total pounds of milk received from each producer or dairy farmer, as the case may be; (ii) the average butterfat content of such milk; and (iii) the amount of such handler's payment to each dairy farmer, producer or cooperative association, as the case may be, together with the price paid per hundredweight and the amount and nature of any advance payments and deductions.

§ 1028.22 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in, or represented by, all milk and milk products on hand at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1028.23 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, if necessary in connection with a proceeding under section 8c15(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1028.30 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to § 1028.20 for the month shall be classified pursuant to the provisions of §§ 1028.31 to 1028.36, inclusive.

§ 1028.31 Classes of utilization.

Subject to the conditions set forth in §§ 1028.32, 1028.33, and 1028.34, skim milk and butterfat shall be classified in accordance with the following classes of utilization:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of in fluid or frozen form as milk, skim milk (including fortified skim milk), skim milk drinks, buttermilk, flavored milk, flavored milk drinks, cultured milk, cultured milk drinks, and cream (sweet, sour, and cultured), but not including frozen cream or any of the above items if sterilized and packaged in metal containers hermetically sealed; (2) used in the production of concentrated milk, skim milk, flavored milk and flavored milk drinks not sterilized which are disposed of in fluid or frozen form but not including (i) those products commonly known as evaporated milk, condensed milk, and condensed skim milk; (ii) flavored milk or flavored milk drinks sterilized and packaged in metal containers hermetically sealed; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b) (2) (i) and (3) of this section); (3) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of for commercial processing, cocoa mixes, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt); (4) shrinkage of producer milk in excess of that pursuant to paragraph (b) (6) of this section; and (5) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat: (1) used to produce any product other than those included under paragraph (a) (1), (2) and (3) of this section; (2) (i) disposed of for animal feed, or (ii) dumped (skim milk only): *Provided,* That the conditions of § 1028.21(b) are met by the handler; (3) disposed of in bulk in any of the forms specified in paragraph (a) (1), (2) and (3) of this section to bakeries, soup companies and candy manufacturing establishments in their capacity as such; (4) disposed of in any of the forms specified in paragraph (a) (1), (2) and (3) of this section if sterilized and packaged in metal containers hermetically sealed; (5) contained in inventories of items included in paragraph (a) (1), (2) and (3) of this section on hand at the end of the month; (6) in actual shrinkage not to exceed one-half of one percent of the skim milk and butterfat, respectively, in producer milk physically received at the pool plant, plus 1½ percent of such receipts and of the receipts of skim milk and butterfat in bulk fluid form from pool plants, less such items disposed of from such plant in bulk to another plant; and (7) in actual shrinkage of other source milk.

§ 1028.32 Shrinkage.

In computing shrinkage for the purposes of § 1028.31, the market administrator shall determine the shrinkage of skim milk and butterfat in the following manner:

(a) Compute total shrinkage at each pool plant by subtracting the skim milk and butterfat, respectively, classified as Class I milk pursuant to § 1028.31 (a) (1), (2) and (3) and as Class II milk pursuant to § 1028.31(b) (1) through (5) (subject to the provisions of §§ 1028.33 through 1028.35 and not including items received in packaged form which are disposed of without repackaging) from the receipts of skim milk and butterfat required to be reported pursuant to § 1028.20.

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk physically received at such plant, other source milk received in bulk fluid form, and receipts of skim milk and butterfat in bulk fluid form received from other pool plants in excess of transfers of such products in bulk to other plants.

§ 1028.33 Responsibility of handlers.

All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified as Class II milk.

§ 1028.34 Transfers.

Skim milk and butterfat transferred as any item specified in § 1028.31(a) (1), (2) and (3), or diverted as producer milk, from a pool plant to other plants shall be classified as follows:

(a) As Class I milk if so moved to another pool plant unless:

(1) Utilization in another class is claimed by the operators of both plants in their reports submitted pursuant to § 1028.20; and

(2) The transferee-plant has utilization in Class II milk of equivalent amounts of skim milk and butterfat, respectively, after making the assignments pursuant to § 1028.36(a) (1) through (3) and the corresponding steps of § 1028.36(b) with any remaining quantities to be classified as Class I milk: *Provided,* That if the transferor-plant has other source milk during the month, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest-priced available class utilization to the producer milk at both plants: *Provided also,* That in the application of this paragraph for the purposes of § 1028.53(b) to any plant subject to such paragraph, transfers, or diversions of milk from such plant to a pool plant shall be classified to each class in the same ratio as other source milk is allocated to each class in such pool plant pursuant to the appropriate step in § 1028.36(a) and the corresponding step of § 1028.36(b).

(b) As Class I milk if so moved to a nonpool plant located 300 miles or more from the County Courthouse, Bloomington, Illinois, or to the plant of a producer-handler: *Provided,* That skim milk and butterfat so moved in fluid form as cream to a nonpool plant, which is not engaged in the processing or packaging of milk or cream for distribution in fluid form on routes shall be Class II milk if the following conditions are met:

(1) The transferor-handler establishes the fact that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

(c) (1) As Class I milk to the extent of the pro rata quantity of skim milk and butterfat computed under subparagraph (2) of this paragraph if so moved in bulk to a nonpool plant and the following conditions are met; and any remainder so moved shall be Class II milk:

(i) The transferee-plant is located less than 300 miles from the County Courthouse, Bloomington, Illinois;

(ii) The transferor-handler claims classification of such skim milk and butterfat as Class II milk in his report submitted pursuant to § 1028.20; and

(iii) The operator of the transferee-plant maintains books and records showing the receipts and utilization of all skim milk and butterfat in any form at

such plant, which are made available if requested by the market administrator for the purpose of verification.

(2) Compute a pro rata quantity as follows:

(i) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant as Class I milk pursuant to the classification provisions of this order applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to supply Grade A milk and who the market administrator determines constitute for the month the regular source of supply for Class I milk at such nonpool plant;

(ii) From any remaining balance of such Class I milk in the nonpool plant, subtract any fluid milk item received in consumer-type packages from a plant regulated by another Federal order issued pursuant to the Act where priced as Class I milk (including any fluid cream, by actual weight of skim milk and butterfat therein, classified and priced as Class II milk under Order No. 41 or Order No. 7 for the Chicago and Milwaukee markets, respectively);

(iii) Prorate the remaining Class I milk at the nonpool plant to receipts in bulk which are subject to the classification and pricing provisions of this and other Federal milk orders issued pursuant to the Act; and

(iv) Further apportion among handlers the amount of Class I milk prorated to this order on the basis of the quantities claimed to be moved to such nonpool plant as Class II milk.

§ 1028.35 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors the monthly report submitted by each handler pursuant to § 1028.20 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before such product is disposed of by the handler, the skim milk used to produce such products shall be considered to be equivalent in weight to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1028.36 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations with respect to each handler required to report pursuant to § 1028.20(a), shall be the pounds of skim milk in such class allocated to such handler's producer milk for the month.

(1) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk shrinkage allowed pursuant to § 1028.31(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk in the form of products included in Class II milk;

(3) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, other source milk received in any of the forms specified in § 1028.31(a) (1), (2) and (3), except that for allocation pursuant to subparagraph (4) of this paragraph: (i) that is not subject to pricing as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under another Federal order, and (ii) that is subject to such pricing under such other order;

(4) Subtract from the remaining pounds of skim milk in Class I milk (i) the pounds of skim milk in buttermilk, flavored milk, flavored milk drinks, cultured milk, cultured milk drinks, skim milk, skim milk drinks, fortified skim milk and cream (sweet, sour and cultured) received in consumer-type packages (including dispenser cans) which are subject to pricing as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under a Federal order; and (ii) the pounds of skim milk in items specified in § 1028.31(a) (1), (2) and (3) received in consumer-type packages from any plant which is furnished its entire Grade A milk supply from a pool plant;

(5) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of items specified in § 1028.31(a) (1), (2) and (3) at the beginning of the month: *Provided,* That if the pounds of skim milk in such beginning inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the remaining pounds of skim milk in Class I milk;

(6) Assign to Class II milk the amount subtracted pursuant to subparagraph (1) of this paragraph; and

(7) Subtract from the remaining pounds of skim milk in each class, respectively, skim milk received from other pool plants and assigned to such class;

(8) If the remaining pounds of skim milk in both classes exceed the total pounds of skim milk in the producer milk of such handler subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class in sequence beginning with Class II milk.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation.

Minimum Prices

§ 1028.40 Class prices.

Subject to the provisions of §§ 1028.41 1028.42 and 1028.43, the minimum class prices per hundredweight for the month, shall be determined by the market administrator as follows:

(a) *Class I milk price.* For each month during the 18-month period following the effective date of this section, the price for Class I milk, f.o.b. plant in the base zone, shall be the minimum announced price as determined for the month for the 55–70 mile zone pursuant to Order No. 41 (Part 941 of this chapter) regulating the handling of milk in the Chicago, Illinois, marketing area, plus 40 cents.

(b) *Class II milk price.* The price for Class II milk shall be:

(1) The arithmetical average (adjusted to the nearest full cent) of the basic (or field) prices paid, or to be paid, per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following places for which prices are reported to the market administrator or the Department by the companies listed below:

Company and Location

Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

§ 1028.41 Butterfat differentials to handlers.

For each one-tenth of one percent that the weighted average butterfat test of producer milk which is classified in each class for each handler is more or less than 3.5 percent there shall be added to or subtracted from, as the case may be, the price for such class, a butterfat differential determined as follows (adjusted to the nearest one-tenth cent):

(a) *Class I price*—Multiply the Chicago butter price for the preceding month by 0.125.

(b) *Class II price*—Multiply the Chicago butter price for the month by 0.115.

§ 1028.42 Location differentials to handlers.

For milk first received by a handler at a plant not located in the base zone, which is classified as Class I milk, the price determined pursuant to § 1028.40 (a) shall be reduced by a location differential as follows:

(a) The amount of location differential shall be determined in accordance with the following table: *Provided,* That for the purpose of calculating such location differential credits applicable on milk and milk products in bulk fluid form which are transferred between plants, (1) such transfers shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1028.36(a)(4), and the comparable step in § 1028.36(b), reduced, for the purposes of this paragraph, by an amount thereof not to exceed 10 percent of total Class I milk disposition under § 1028.31(a) (1), (2) and (3) for the transferee-plant, and (2) assignment to transferor-plants shall be made in sequence according to the location differential applicable at each plant, beginning with the plant having the next lowest differential.

Location of plant	Rate per hundredweight (cents)
In any of the counties of Champaign, Vermilion, De Witt, Douglas, Knox, Warren, Fulton, Edgar, Peoria, Woodford, Mason, McDonough, Piatt, Stark, Marshall Tazewell, McLean, Livingston, and Ford.	6.0.
Outside the marketing area and between 70 and 75 miles from the County Courthouse at Springfield or Toledo, Illinois, whichever is nearer such plant.	10.5, plus 1.5 cents for each additional 10 miles, or major fraction thereof, in excess of 75 miles.

(b) The distance of each plant outside the marketing area from the nearer of the County Courthouses located at Springfield and Toledo, Illinois, shall be the shortest hard-surfaced highway, as determined by the market administrator.

§ 1028.43 Computation of prices of skim milk and butterfat.

The prices per hundredweight of skim milk and butterfat to be paid by each handler for producer milk in each class shall be computed as follows: For each class, respectively, the price per hundredweight of skim milk shall be the applicable class price for the month (§ 1028.40) less the result of multiplying the applicable class butterfat differential for the month (§ 1028.41) by 35. For each class, respectively, the price per hundredweight of butterfat shall be the applicable class price for the month plus the result of multiplying the applicable class butterfat differential for the month by 965.

§ 1028.44 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

§ 1028.45 Rate of payment on other source milk.

(a) Except as provided in paragraphs (b) and (c) of this section, the rate of payment per hundredweight by a handler on Class I milk not derived from producer milk shall be calculated as follows: Subtract the Class II price adjusted by the Class II butterfat differential, from the Class I price adjusted by the Class I butterfat differential and a location differential computed at the rate set forth in § 1028.42 for the location of the plant from which such milk is supplied.

(b) For the months of September through January the rate of payment per hundredweight by a handler on Class I milk derived from other source milk in fluid form which has been qualified by a duly constituted health authority for labeling and disposition as Grade A milk in the marketing area shall be computed as follows: Subtract the uniform price to producers (§ 1028.51) adjusted by the producer butterfat and location differentials, from the Class I price adjusted by the Class I butterfat and location differentials, for the location of the plant from which such milk is supplied.

(c) If (1) the source of such other source milk is not clearly established, or (2) the other source milk is received in the form of a Class II milk product, it shall be considered to have been received by the handler at the location of the plant where allocation is made under § 1028.36.

DETERMINATION OF UNIFORM PRICES

§ 1028.50 Net obligation of each handler operating a pool plant.

The net obligation for producer milk received during the month by a handler operating a pool plant shall be a sum of money computed by the market administrator by multiplying the pounds of skim milk and butterfat therein in each class by the applicable class price pursuant to § 1028.43, adding together the resulting amounts; subtracting location adjustment credits to handlers as provided by § 1028.42; and adding any amounts computed for such handler pursuant to paragraphs (a), (b) and (c) of this section.

(a) Multiply the pounds of any overage deducted from each class pursuant to § 1028.36 (a)(8) and (b) by the applicable class price(s);

(b)(1) Multiply the hundredweight of other source milk subtracted from Class I milk pursuant to § 1028.36(a)(2) and the corresponding step of § 1028.36(b), by the rate of payment determined pursuant to § 1028.45(a) to be applicable at the pool plant where it was allocated; and

(2) Multiply the hundredweight of other source milk subtracted from Class I milk pursuant to § 1028.36(a)(3)(i) and the corresponding step of (b) by the rate of payment under § 1028.45 applicable at the nearest plant from which a comparable amount of such other source milk was received: *Provided,* That the payment described in this subparagraph shall not apply with respect to receipts by such handler of other source milk from a plant to which § 1028.53(b) is applicable.

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the applicable Class I price for the month and the applicable Class II price for the preceding month by the pounds of producer milk remaining in Class II milk for the preceding month less allowable shrinkage for such month pursuant to § 1028.36(a)(1), or the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 1028.36(a)(5) and the corresponding step of § 1028.36(b) for the month, whichever is less; and

(2) Multiply the applicable rate of payment pursuant to § 1028.45 by the pounds of skim milk and butterfat allocated to Class I milk pursuant to § 1028.36(a)(5) and the corresponding step of § 1028.36(b) for the month which is in excess of the sum of (i) the quantity for which an adjustment was made pursuant to subparagraph (1) of this paragraph, and (ii) any quantity assigned to Class II milk pursuant to § 1028.36(a)(3)(ii), and the corresponding step of § 1028.36(b) for the preceding month which was priced in such month as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under this or another Federal order.

§ 1028.51 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plant in the base zone, as follows:

(a) Combine into one total the values computed pursuant to § 1028.50 for all handlers who made the reports prescribed in § 1028.20(a) and the payments pursuant to §§ 1028.60 and 1028.62 for the preceding month;

(b) Add an amount representing the total value of all location adjustments to such handlers on producer milk pursuant to § 1028.65(b);

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Subtract if the average butterfat content of producer milk included in these computations is greater than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1028.65(a), and multiplying the resulting figure by the hundredweight of such milk;

(e) Divide by the total hundredweight of producer milk included in such computation; and

(f) Subtract not less than 4 cents nor more than 5 cents, adjusting to the nearest cent.

§ 1028.52 Notification of handlers.

The market administrator shall:

(a) On or before the 13th day after the end of each month, notify each handler subject to § 1028.20(a) of the following:

(1) The amount and value of his milk in each class pursuant to § 1028.50;

(2) The amount due to or from, as the case may be, the producer-settlement fund pursuant to §§ 1028.62 and 1028.63;

(3) The amount to be paid by such handler pursuant to § 1028.66.

(b) On or before the 20th day after the end of each month, notify each handler who operates an area plant which is not a pool plant the amout due the producer-settlement fund and the amount due for administrative assessment pursuant to § 1028.53.

§ 1028.53 Obligation of handler operating a nonpool plant.

On or before the 20th day after the end of each month, each handler, except a producer-handler, operating a nonpool plant (other than a fully regulated plant under another Federal order issued pursuant to the Act) from which routes are operated in the marketing area shall pay to the market administrator the amounts computed pursuant to paragraph (a) of this section, unless the

handler elects at the time his report pursuant to § 1028.20(b) is due to pay the amounts computed pursuant to paragraph (b) of this section.

(a) An amount (1) for deposit in the producer-settlement fund, equal to the rate of payment on other source milk pursuant to § 1028.45 multiplied by the hundredweight of skim milk and butterfat disposed of from such plant as Class I milk (computed in accordance with § 1028.36) in the marketing area on routes during such month; and

(2) For administrative assessment, equal to the rate effective under § 1028.66 applied to such Class I milk, unless an administrative expense assessment is applied to milk at such plant pursuant to another Federal order issued pursuant to the Act on the same basis as plants fully regulated by such order; or

(b) An amount (1) for deposit into the producer-settlement fund, equal to any plus amount remaining after deducting the amounts computed under subdivisions (i) and (ii) of this subparagraph from the obligation that would have been computed pursuant to § 1028.50 for such nonpool plant and any supply plant (meeting the requirements provided by § 1028.1(k)(2)), which serves as a source of milk for such nonpool plant, had such plant(s) been a pool plant(s):

(i) The gross payments made on or before the 20th day after the end of the month to dairy farmers for milk meeting the quality requirements described in § 1028.1(o) and received at such plant(s) during the month; and

(ii) Any payments to the producer-settlement funds under other Federal orders issued pursuant to the Act applicable to milk at such plant during the month as a partially regulated plant under such other orders, and

(2) For administrative assessment, equal to that which would have been computed pursuant to § 1028.66 if such area plant had been a pool plant during the month: *Provided,* That such amount shall be reduced by any amounts paid for the month as an administrative expense assessment determined on the basis of Class I milk disposed of on routes in other marketing areas, pursuant to the terms of other Federal orders issued pursuant to the Act: *And provided further,* That (i) if less Class I milk is disposed of from such plant on routes in the Central Illinois marketing area than is disposed of during the month on routes in another marketing area(s) as defined in a Federal order(s) issued pursuant to the Act, and (ii) if an administrative expense assessment is applied at such plant as if a fully regulated (pool) plant under the order for the marketing area where the volume of Class I milk disposed of from such plant is greatest, no administrative expense assessment shall be applicable under this part.

§ 1028.54 Plants with milk in more than one Federal order market.

Milk received at a plant otherwise eligible as a pool plant under § 1028.1(k) shall be exempt from the provisions of this part if the conditions of paragraph (a) or (b) of this section are met: *Provided,* That the handler of such milk shall make reports to the market administrator with respect to his total receipts and utilization of skim milk and butterfat at such times and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with § 1028.12(g):

(a) The plant is otherwise qualified under § 1028.1(k)(1) but during each of the three immediately preceding months (but not including any month prior to the effective date of § 1028.1(k)) a greater quantity of Class I milk is disposed of from such plant on routes in another Federal order marketing area than is disposed of during the month from such plant on routes in the Central Illinois marketing area: *Provided,* That any plant which previously had been a pool plant but is made exempt pursuant to this paragraph shall not regain pool plant status during that portion of a period of three consecutive months following such exemption when such Class I milk is subject to the class price and pooling provisions of such other Federal order.

(b) Any plant having status as a pool plant under another Federal order for November of any year shall not qualify as a pool plant under § 1028.1(k)(2) for such month of November or for any portion of the next following December through August, inclusive, even though such plant meets the requirements of § 1028.1(k)(2), unless it first has been withdrawn as a pool plant under the other order in the manner provided in such other order.

PAYMENTS

§ 1028.60 Time and method of payments for producer milk.

(a) Except as provided in paragraph (c) of this section, each handler shall pay, on or before the last day of each month, each producer for milk received from him during the first 15 days of such month not less than the Class II price for the preceding month rounded to the next lower dollar or half dollar, as the case may be: *Provided,* That in the event any producer or cooperative association discontinues delivery to such handler during the month, such partial payment shall not be made and full payment for all milk received from such producer or cooperative association during the month shall be made pursuant to paragraphs (b) and (c) of this section;

(b) Except as provided in paragraphs (c) and (e) of this section, each handler (1) on or before the 20th day after the end of the month shall pay each producer for milk received from him during the month not less than the uniform price for such month computed pursuant to § 1028.51, adjusted by the butterfat and location differentials pursuant to § 1028.65, and less the amount of the payment made pursuant to paragraph (a) of this section, and other bona fide deductions; *Provided,* That, with respect to each deduction made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized by, and properly chargeable to, the producer.

(2) Furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(i) The month, and identity of the handler and of the producer;

(ii) The total pounds and the average butterfat content of milk received from the producer;

(iii) The nature and amount, or the rate per hundredweight, of each deduction claimed by the handler, including any deduction made pursuant to § 1028.67;

(iv) The minimum rate or rates at which payment is required;

(v) The rate used in making payment if such rate is more than the minimum; and

(vi) The net amount of payment to the producer.

(c) Upon receipt of written request from a cooperative association which is authorized by its members to collect payment for their milk, accompanied by written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(1) Pay to the cooperative association on or before the 28th and 19th days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, an amount not less than the total due such producer-members as determined pursuant to such paragraphs;

(2) Submit to the cooperative association on or before the 28th day of each month, written information which shows for each producer-member the total pounds of milk received during the first 15 days of such month; and

(3) Submit to the cooperative association in writing on or before the 19th day of each month for each producer-member the information specified pursuant to subdivisions (i) through (iii) of paragraph (b)(2) of this section.

(d)(1) The payments and submission of information pursuant to paragraph (c) of this section shall be made with respect to milk of each producer who is certified by the cooperative association as a member, which milk is received on and after the first day of the month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership, or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto.

(3) Exceptions, if any, by a producer claimed to be a member or by a handler to the accuracy of such certification shall be made by written notice to the market administrator and shall be subject to his determination.

(e) On or before the 19th day after the end of each month each handler shall pay to each cooperative association which is a handler for skim milk and butterfat received, including any milk received by diversion pursuant to § 1028.1(o)(2), from such cooperative association during such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class by the class price applicable for the location of the transferee-plant.

§ 1028.61 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1028.53 (a)(1) or (b)(1), 1028.62 and 1028.64, and from which he shall make all payments pursuant to §§ 1028.63 and 1028.64: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 1028.62 Payments to the producer-settlement fund.

On or before the 15th day after the end of each month each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 1028.50 for such month is greater than the value of producer milk received by such handler during the month, computed at the minimum uniform price as specified in § 1028.51, adjusted by the differentials provided for in § 1028.65.

§ 1028.63 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler, any amount by which the total value of his milk computed pursuant to § 1028.50 for such handler for such month is less than the value of producer milk received by such handler during the month, computed at the minimum uniform price as specified in § 1028.51, adjusted by the differentials provided for in § 1028.65.

§ 1028.64 Adjustment of errors in payment.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to §§ 1028.53 and 1028.62, the market administrator shall promptly bill such handler for any unpaid amount and such handler, within 15 days shall make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1028.63, the market administrator, within 15 days shall make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1028.60, the handler shall pay such balance, due such producer or cooperative association not later than the specified time of making payment to producers or cooperative associations next following such disclosure.

§ 1028.65 Butterfat and location differentials to producers.

(a) *Butterfat differential.* In making payment for producer milk pursuant to § 1028.60, there shall be added to or subtracted from the uniform price per hundredweight, for each one-tenth of one percent of butterfat content in such milk above or below 3.5 percent, respectively, a butterfat differential computed by the market administrator as the average of the class butterfat differentials determined pursuant to § 1028.41 weighted by the total pounds of butterfat in producer milk in each class, respectively, and the result adjusted to the nearest one-tenth cent.

(b) *Location differentials.* In making payments pursuant to § 1028.60 for milk received at a plant located outside the base zone, the uniform price shall be reduced at the same rate as is applicable to Class I milk at such plant pursuant to § 1028.42.

§ 1028.66 Expense of administration.

As his pro rata share of the expense of the administration of this part, each handler (except with respect to milk handled at a nonpool plant from which a route is operated within the marketing area) shall pay to the market administrator on or before the 15th day after the end of each month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of (1) producer milk, and (2) other source milk allocated to Class I milk pursuant to § 1028.36(a)(2) and (3) and the corresponding step of § 1028.36(b), excluding other source milk on which a corresponding type of assessment is payable under another Federal order. A handler operating a nonpool plant from which a route is operated within the marketing area shall pay administrative assessments in accordance with § 1028.53.

§ 1028.67 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1028.60(b), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1028.68 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money, irrespective of when such obligation arose.

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of this part shall terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of

time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1028.70 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1028.71.

§ 1028.71 Suspension or termination.

The Secretary may suspend or terminate this part, or any provision thereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1028.72 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1028.73 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected over and above the amount necessary to meet outstanding obligations and the expenses incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1028.74 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1028.75 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F.R. Doc. 60-4157; Filed, May 6, 1960; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED VEGETABLES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Sweetpotatoes; Notice of Proposal To Amend Standard of Identity

Notice is given that the Princeville Canning Company, St. Francisville, Louisiana, has filed a petition which proposes that the definition and standard of identity for canned vegetables other than those specifically regulated (21 CFR 51.990) be amended, in the case of sweetpotatoes, to include "halves or halved" as an additional optional form. With the amendment as proposed, paragraph (b) of § 51.990 will read as follows:

§ 51.990 Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients.

* * * * * *

(b) The table referred to in paragraph (a) of this section is as follows:

I Name or synonym of canned vegetable	II Source	III Optional forms of vegetable ingredient
* * *	* * *	* * *
Sweetpotatoes	Tuber of the sweetpotato plant	Whole; halves or halved; pieces; mashed.
* * *	* * *	* * *

Pursuant to the provisions of the Federal Food, Drug, and Cometic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500), all interested persons are invited to present their views in writing regarding the proposal published in this notice. Views and comments should be submitted in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

Dated: May 2, 1960.

[SEAL] J. K. KIRK,
Assistant to the Commissioner of Food and Drugs.

[F.R. Doc. 60-4137; Filed, May 6, 1960; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 182]

FROZEN RAW HEADLESS SHRIMP

U.S. Standards for Grades [1]

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. 742e), it is proposed to amend Title 50, Code of Federal Regulations, by the addition of a new Part 182. The purpose of this amendment is to issue standards for grades of frozen raw headless shrimp in accordance with the authority contained in Title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621-1627). These regulations, if made effective, will be the first issued by the Department of the Interior prescribing Government standards for this commodity.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

ELMER F. BENNETT,
Acting Secretary of the Interior.

MAY 3, 1960.

PRODUCT DESCRIPTION, GRADES AND SIZES

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AUTHORITY: §§ 182.1 to 182.31 issued under sec. 6(a). Fish and Wildlife Act of August 8, 1956; 16 U.S.C. 742e.

PRODUCT DESCRIPTION, GRADES AND SIZES

§ 182.1 Product description.

Frozen raw headless shrimp are clean, wholesome, headless, shell-on shrimp of the regular commercial species. They are sorted for size, packed, and frozen in accordance with good commercial prac-

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

tice and are maintained at temperatures necessary for the preservation of the product.

§ 182.2 Grades of frozen raw headless shrimp.

(a) "U.S. Grade A" or "U.S. Fancy" is the quality of frozen raw headless shrimp of a single commercial count that possess a good flavor and odor, that are of a reasonably uniform color, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 90 points.

(b) "U.S. Grade B" or "U.S. Good" is the quality of frozen raw headless shrimp of a single commercial count that possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 80 points.

(c) "U.S. Grade C" or "U.S. Commercial" is the quality of frozen raw headless shrimp of a single commercial count that possess at least reasonably good flavor and odor, and that for those factors which are rated in accordance with the scoring system outlined in the following sections, the total score is not less than 70 points.

(d) "Substandard" is the quality of frozen raw headless shrimp that fail to meet the requirements of "U.S. Grade C" or "U.S. Commercial."

§ 182.3 Sizes of frozen raw headless shrimp.

The average weight and number of shrimp per pound (count) of frozen raw headless shrimp are not factors of quality in determining the grade of the product. However the degree of conformity of the weights of the individual shrimp to the average weight of shrimp in the sample is rated since it is a factor affecting the utility of the product. Descriptive size names are not recommended. The commercial count (number per pound) and descriptive size names, if used, shall conform to one of the following categories:

Commercial count—Number of shrimp per pound	Number of shrimp per pound (average)		Descriptive size name
	Over—	Not over—	
Under 10	-------	9.9	Extra colossal.
10–15	9.9	15.0	Colossal.
16–20	15.0	20.0	Extra jumbo.
21–25	20.0	25.0	Jumbo.
26–30	25.0	30.0	Extra large.
31–35	30.0	35.0	Large.
36–42	35.0	42.0	Medium large.
43–50	42.0	50.0	Medium.
51–60	50.0	60.0	Small.
61–70	60.0	70.0	Extra small.
Over 70	70.0	-------	Tiny.

FACTORS OF QUALITY AND GRADE

§ 182.11 Ascertaining the grade.

(a) *General.* In addition to considering other requirements outlined in the standards, the grade is ascertained by observing the product in the frozen, thawed, and cooked states and is evaluated by considering the following:

(1) *Factors rated by score points.* The quality of the product with respect to factors scored is expressed numerically. Factors rated by score points are: dehydration; deterioration; black spot on shell only; black spot on meat; broken, damaged, and pieces of shrimp; legs, loose shell, and flippers; heads and unacceptable shrimp; extraneous materials; uniformity of size; and the texture of the cooked product. Cumulative point deductions from the maximum possible score of 100 are assessed for variations of quality for each factor in accordance with the schedule in Table I. The minimum score is 0.

(2) *Factor not rated by score points.* The factor of "flavor and odor" is evaluated organolepticaliy after the product has been cooked in a suitable manner, and is defined as follows:

(i) *Good flavor and odor.* "Good flavor and odor" (essential requirement for a Grade A product) means that the product has the good flavor and odor characteristic of freshly caught, chilled shrimp and is free from off-flavors and off-odors of any kind. The presence of iodoform-like flavor and odor is not to be construed as off-flavor and off-odor.

(ii) *Reasonably good flavor and odor.* "Reasonably good flavor and odor" (minimum requirement of Grade B and Grade C products) means that the product may be somewhat lacking in the good flavor and odor characteristic of freshly caught, chilled shrimp but is free from objectionable off-flavors and objectionable off-odors of any kind.

DEFINITIONS AND METHODS OF ANALYSIS

§ 182.21 Definitions and methods of analysis.

(a) "Count," or number of shrimp per pound, is determined by dividing the number of shrimp in the package by the actual net weight in pounds of the shrimp.

(b) "Net weight" of the shrimp is determined as follows:

(1) *Equipment needed.* (i) Container, 4-gallon or more capacity;

(ii) Source of running water that can be maintained at 75°–85° F.; with hose of sufficient length to reach the bottom of the container;

(iii) Balance accurate to 0.01 ounce, or 0.1 gram;

(iv) U.S. standard wire sieve, ASTM No. 20, 12-inch diameter.

(2) *Procedure.* Place the frozen shrimp in the 4-gallon container into which fresh water of a temperature from 75° to 85° F. is introduced from the bottom at a flow of approximately six gallons per minute. After any glaze has been removed and the shrimp separate easily, empty the contents of the container through the tared sieve, spreading the shrimp out evenly. Tilt the sieve at approximately a 45-degree angle to facilitate drainage; drain the shrimp for 2 minutes; and then weigh the sieve and contents. The net weight is the weight of the sieve and contents minus the weight of the sieve.

(c) "Cooked in a suitable manner" means that a thawed sample of the product has been cooked by the following method:

Place 2 to 4 ounces of peeled deveined and rinsed shrimp in a boilable plastic bag with ½-cup of salt solution (1 teaspoon salt dissolved in 1 pint or 2 cups of water). Add a 2-ounce stainless steel weight or snap a large clip on bottom of bag. Suspend the bag in a kettle of boiling water and return the water to a boil as rapidly as possible. (More than one sample may be cooked at a time, as long as the water will return to a boil within 2 minutes). After the water is boiling, cook according to the following timetable:

Count of shrimp—Number per pound	Cooking time (minutes)
Up to 15	12
16 to 35	9
Over 35	6

Cool to approximately room temperature (do not refrigerate) for evaluation of flavor and odor.

(d) "Dehydration" refers to the occurrence of the whitish area on the exposed frozen meat, due to the drying of the affected area, and to a generally desiccated appearance of the meat after the shell is removed.

(e) "Deterioration" refers to any detectable change from the normal good quality of freshly caught shrimp. It is evaluated by noting deviations of the odor of the thawed product from the normal odor of freshly caught shrimp.

(1) "Slight deterioration" means that the shrimp lack the pleasant odor characteristic of freshly caught shrimp.

(2) "Moderate deterioration" means that the shrimp have slight off-odors.

(3) "Marked deterioration" means that the shrimp have definite off-odors, but are not spoiled.

(4) "Excessive deterioration" means that the shrimp have a definite odor of spoilage. Deductions in this category are made for individual shrimp which are affected.

(f) "Black spot on the shell only" refers to blackened areas at least moderately affecting the appearance of the shrimp.

(1) "Moderately affecting" means that the black spot which occurs at the shell joints extends at least one-third of the diameter of the shrimp at the particular location at which it occurs, and black spot which occurs as a circular area exceeds one-eighth inch in diameter for 31/35 count shrimp or is proportionately larger or smaller for respectively larger or smaller shrimp.

(g) "Black spot on the meat" refers to any darkened area that is present on the shrimp flesh.

(h) "Broken" refers to a shrimp having a break in the flesh greater than one-third of the thickness of the shrimp at the particular location at which it occurs.

(i) "Damaged" refers to a shrimp that is crushed or mutilated so as to materially affect its appearance.

(j) "Piece" refers to any portion of shrimp that contains less than five segments.

(k) "Legs" refers to walking legs only, not swimmerets, or to portions of the head (cephalothorax) with legs and which may be either loose or attached to a shrimp.

(l) "Loose shell" refers to any piece of shell which is completely detached from the shrimp except paper-thin shell.

(m) "Flipper" refers to a tail fin, sometimes including the last shell segment but containing no meat.

(n) "Head" means any portion of head (cephalothorax) large enough to contain an eye and which may be either loose or attached to a shrimp.

(o) "Unacceptable shrimp" refers to abnormal or diseased shrimp.

(p) "Extraneous material" means any material in the package which is not shrimp material.

(q) "Uniformity of size" is evaluated by computing the actual count per pound of the shrimp in the sample, and then determining, by weighing individual shrimp, the number of shrimp that are slightly large, slightly small, exceedingly large, or exceedingly small for that particular count per pound.

(l) "Slightly large" means that a shrimp is more than 25 percent, but not more than 35 percent larger, by weight, than a shrimp of the actual count per pound.

(2) "Exceedingly large" means that a shrimp is more than 35 percent larger, by weight, than a shrimp of the actual count per pound.

(3) "Slightly small" means that a shrimp is more than 25 percent, but not more than 35 percent smaller, by weight, than a shrimp of the actual count per pound.

(4) "Exceedingly small" means that a shrimp is more than 35 percent smaller, by weight, than a shrimp of the actual count per pound. For use in computing the uniformity of size factor, weights of individual shrimp are given in Table II.

(r) "Texture" defect refers to an undesirable toughness and/or dryness and/or mushiness of the shrimp examined in the cooked state.

Lot Certification Tolerances

§ 182.25 Tolerances for certification of officially drawn samples.

(a) The sample rate and grades of specific lots shall be certified in accordance with Part 170 of this chapter (regulations governing processed fishery products, 23 F.R. 5064, July 3, 1958).

(b) With respect to conformance with the declared commercial count, the lot shall be considered to be of the declared count if the number of deviant units in the sample does not exceed the acceptance number prescribed for the sample size in Part 170 of this chapter. If a lot fails to meet the requirements of any specific commercial count, it shall be marked a mixed lot and shall not be graded.

Score Sheet

§ 182.31 Score sheet for frozen raw headless shrimp.

GENERAL

Label	
Size and kind of container	
Container mark or identification	
Size of lot	
Number of samples	
Declared count per pound	
Actual net weight (ounces)	
Actual count per pound	
Descriptive size name	

Scored factors (table 1)	Deductions
Frozen and thawed:	
1. Dehydration	
Thawed:	
2. Deterioration	
3. Black spot on shell only	
4. Black spot on meat	
5. Broken, damaged, and pieces	
6. Legs, loose shell, and flippers	
7. Heads and unacceptable shrimp	
8. Extraneous material	
9. Uniformity of size	
Cooked:	
10. Texture	
Total deductions	
Rating for scored factors (100 minus total deductions)	
Flavor and odor	
Final grade	

Table I—Schedule of Deductions for Factors Rated by Score Points [1]

State	Factor	Description of quality variation			Deduct
		Freezer burn-exposed ends		Dessication of meat	
		Frozen state	Thawed state	Thawed state	
Frozen and thawed	Dehydration	Up to 5 percent	None	None	0
		5.1–15.0 percent	Up to 2.0 percent	Slight	3
		15.1–25.0 percent	2.1–5.0 percent	Moderate	6
		Over 25.0 percent	Over 5.0 percent	Marked	11
		(Percent by count of total sample.) • Apply the one highest deduction only.			
Thawed	Deterioration	Off-odor, overall sample:			
		Slight			2
		Moderate			6
		Marked			21
		Any excessive, each 1 percent or fraction (percent by count)			5
	Black spot on shell only	Shell affected, but not meat:			
		Not over 5 percent			0
		Each additional 5 percent, or fraction (percent by count)			1
	Black spot on meat	None			0
		Not over 3 percent			1
		3.1–5.0 percent			2
		Each additional 5 percent, or fraction (percent by count)			2
	Broken, damaged, and pieces.	Not over 1 percent			0
		1.1–3.0 percent			2
		Each additional 3 percent, or fraction (percent by weight)			2
	Legs, loose shell, and flippers.	Not over 3 percent			0
		Each additional 3 percent, or fraction (percent by count)			2
	Heads and unacceptable shrimp.	Not over 1 percent			2
		Each additional 1 percent, or fraction (percent by count)			3
	Extraneous material	1 piece			1
		2 pieces			2
		over 2 pieces			4
	Uniformity of size	Slightly large and slightly small: Each 3 percent, or fraction			1
		Exceedingly large and exceeding small: Each 3 percent, or fraction (percent by count—based on actual count per pound of sample).			2
Cooked	Texture	Tough, dry, or mushy:			
		Slight			2
		Moderate			4
		Excessive			11

[1] This schedule of point deductions is based on the examination of sample units composed of: (a) the contents of an entire package or (b) sufficient packages to provide a sample unit of 2 pounds or more, declared net weight.

TABLE II—WEIGHTS OF NON-UNIFORM SHRIMP

[Ounces]

Count per pound	Exceedingly large	Slightly large	Slightly small	Exceedingly small
	Over—	*Over—*	*Under—*	*Under—*
8	2.70	2.50	1.50	1.30
9	2.40	2.22	1.33	1.16
10	2.16	2.00	1.20	1.04
11	1.96	1.82	1.09	0.94
12	1.80	1.67	1.00	.87
13	1.66	1.54	0.92	.80
14	1.54	1.43	.86	.74
15	1.44	1.33	.80	.69
16	1.35	1.25	.75	.65
17	1.27	1.18	.71	.61
18	1.19	1.11	.67	.58
19	1.14	1.05	.63	.55
20	1.08	1.00	.60	.52
21	1.03	0.95	.57	.50
22	0.98	.91	.54	.47
23	.94	.87	.52	.45
24	.90	.83	.50	.43
25	.86	.80	.48	.42
26	.83	.77	.46	.40
27	.80	.74	.44	.38
28	.77	.71	.43	.37
29	.74	.69	.41	.36
30	.72	.67	.40	.35
31	.70	.64	.39	.34
32	.67	.62	.38	.32
33	.65	.61	.36	.32
34	.64	.59	.35	.30
35	.62	.57	.34	.30
36	.60	.56	.33	.29
37	.58	.54	.32	.28
38	.57	.53	.32	.27
39	.55	.51	.31	.27
40	.54	.50	.30	.26
41	.53	.49	.29	.25
42	.51	.48	.29	.25
43	.50	.47	.28	.24
44	.49	.46	.27	.24
45	.48	.44	.27	.23
46	.47	.44	.26	.23
47	.46	.42	.26	.23
48	.45	.42	.25	.22
49	.44	.41	.24	.21
50	.43	.40	.24	.21
51	.42	.39	.24	.20
52	.42	.38	.23	.20
53	.41	.38	.23	.20
54	.40	.37	.22	.19
55	.39	.36	.22	.19
56	.39	.36	.21	.18
57	.38	.35	.21	.18
58	.37	.34	.21	.18
59	.37	.34	.20	.18
60	.36	.33	.20	.17
61	.35	.33	.20	.17
62	.35	.32	.19	.17
63	.34	.32	.19	.16
64	.34	.31	.19	.16
65	.33	.31	.18	.16
66	.33	.30	.18	.16
67	.32	.30	.18	.16
68	.32	.29	.18	.15
69	.31	.29	.17	.15
70	.31	.28	.17	.15
71	.30	.28	.17	.15

ALTERNATE TABLE II—WEIGHTS OF NON-UNIFORM SHRIMP

[Grams]

Count per pound	Exceedingly large	Slightly large	Slightly small	Exceedingly small
	Over—	*Over—*	*Under—*	*Under—*
8	76.5	70.9	42.5	38.2
9	68.0	62.9	37.7	32.9
10	61.2	56.7	34.0	29.5
11	55.6	51.6	30.9	26.6
12	51.0	47.3	28.4	24.7
13	47.1	43.7	26.1	22.7
14	43.7	40.5	24.4	21.0
15	40.8	37.7	22.7	19.6
16	38.3	35.4	21.3	18.4
17	36.0	33.4	20.1	17.3
18	33.7	31.5	19.0	16.4
19	32.3	29.8	17.9	15.6
20	30.6	28.4	17.0	14.7
21	29.2	26.9	16.2	14.2
22	27.8	25.8	15.3	13.3
23	26.6	24.7	14.7	12.8
24	25.5	23.5	14.2	12.2
25	24.4	22.7	13.6	11.9
26	23.5	21.8	13.0	11.3
27	22.7	21.0	12.5	10.8
28	21.8	20.1	12.2	10.5
29	21.0	19.6	11.6	10.2
30	20.4	19.0	11.3	9.9
31	19.8	18.1	11.0	9.6
32	19.6	17.6	10.8	9.2
33	18.4	17.3	10.2	8.9
34	18.1	16.7	9.9	8.6
35	17.6	16.2	9.6	8.4
36	17.0	15.9	9.4	8.2
37	16.4	15.3	9.1	7.9
38	16.2	15.0	9.0	7.7
39	15.6	14.5	8.8	7.6
40	15.3	14.2	8.5	7.4
41	15.0	13.9	8.3	7.2
42	14.4	13.6	8.1	7.0
43	14.2	13.3	7.9	6.9
44	13.9	13.0	7.7	6.7
45	13.6	12.5	7.6	6.6
46	13.3	12.3	7.4	6.4
47	13.0	12.0	7.2	6.3
48	12.8	11.8	7.1	6.2
49	12.4	11.6	6.9	6.0
50	12.2	11.3	6.8	5.9
51	11.9	11.0	6.8	5.7
52	11.9	10.8	6.5	5.7
53	11.6	10.8	6.5	5.7
54	11.3	10.5	6.2	5.4
55	11.1	10.2	6.2	5.4
56	11.1	10.2	6.0	5.1
57	10.8	9.9	6.0	5.1
58	10.5	9.6	6.0	5.1
59	10.5	9.6	5.7	5.1
60	10.2	9.4	5.7	4.8
61	9.9	9.4	5.7	4.8
62	9.9	9.1	5.4	4.8
63	9.6	9.1	5.4	4.5
64	9.6	8.8	5.4	4.5
65	9.4	8.8	5.1	4.5
66	9.4	8.5	5.1	4.5
67	9.1	8.5	5.1	4.5
68	9.1	8.2	5.1	4.3
69	8.8	8.2	4.8	4.3
70	8.8	7.9	4.8	4.3
71	8.5	7.9	4.8	4.3

[F.R. Doc. 60-4089; Filed, May 6, 1960; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Small Tract Classification Orders Nos. 68 and 104; Revocation

APRIL 29, 1960.

By virtue of the authority contained in the Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, and pursuant to the authority delegated to me by Bureau Order 541, dated April 21, 1954 (19 F.R. 2473), as amended, it is ordered as follows:

1. Effective immediately, Small Tract Classification Order No. 104, issued July 14, 1955, by the Area Administrator, Bureau of Land Management, Area 4, Anchorage, Alaska, is revoked.

2. Effective immediately, Small Tract Classification Order No. 68, issued Dec. 17, 1952, by the Chief, Division of Land Planning, Bureau of Land Management, Region VII, Anchorage, Alaska, is revoked insofar as it pertains to Lots 29 and 30 of United States Survey No. 2991, Pennock Island, Unit No. 1–A, near Ketchikan, Alaska.

3. Valid existing rights are not affected by this order.

WARNER T. MAY,
Operations Supervisor.

[F.R. Doc. 60–4138; Filed, May 6, 1960; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 9812]

TRANS CARIBBEAN AIRWAYS; NON-SUBSIDY MAIL AUTHORIZATION

Notice of Change of Oral Argument

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding now assigned for May 11 is reassigned to May 10, 1960, 10:00 a.m., e.d.s.t., Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., May 4, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60–4156; Filed, May 6, 1960; 8:48 a.m.]

[Docket 10981]

TRANS WORLD AIRLINES, INC., AND ALLEGHENY AIRLINES, INC.

Notice of Cancellation of Hearing

Trans World Airlines, Inc., v. Allegheny Airlines, Inc., enforcement proceedings; Docket 10981.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-titled proceeding now assigned to be held on May 10, 1960, in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Walter W. Bryan has been canceled.

Dated at Washington, D.C., May 4, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60–4163; Filed, May 6, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–4457 etc.]

NATHAN APPLEMAN AND LEWIS BROS., INC.

Notice of Severance

MAY 2, 1960.

Nathan Appleman, d/b/a N. Appleman Company, Docket Nos. G–4457, et al., Lewis Bros., Inc., Docket No. G–16018.

Notice is hereby given that the application filed by Lewis Bros., Inc., in Docket No. G–16018 in the above-entitled proceeding and scheduled for a hearing to be held on May 10, 1960, at 9:30 a.m., e.d.s.t., is severed therefrom for such disposition as may be appropriate.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–4133; Filed, May 6, 1960; 8:46 a.m.]

[Docket No. DA–982–Calif. et al.]

CALIFORNIA

Determination and Partial Vacation of Withdrawal

MAY 2, 1960.

Lands withdrawn in Power Site Reserves Nos. 655 and 656, Power Site Classification No. 267, Reservoir Site Reserve No. 17, Department of the Interior Permit Sacramento 047946, and Project No. 564; Docket No. DA–982–California., Gilmore & Gilmore, Docket No. DA–988–California, E. C. Roarty.

An application, designated Docket No. DA–982–California, was filed by Gilmore & Gilmore, Attorneys of Sacramento, California, on behalf of an unnamed client, for restoration to entry, requiring a determination under section 24 of the Federal Power Act with respect to some of the following-described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 32 E.,
Sec. 25, All;
Sec. 36, N½NE¼ and NW¼.
T. 26 S., R. 33 E.,
Sec. 29, N½;
Sec. 30, lots 3, 4 and E½SW¼;
Sec. 31, lots 1, 2, 3, and 4.

and an application, designated Docket No. DA–988–California, was filed by E. C. Roarty, of Roarty Realty, Orange, California, on behalf of unnamed clients, for release from power withdrawal of the following-described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 32 E.,
Sec. 25, NW¼SE¼;
Sec. 36, W½NE¼, and W½SE¼.

The above-described lands lie on both sides of the Kern River just below the constructed Isabella Dam or at the Auxiliary Dam of the U.S. Corps of Engineers.

The lands in the NW¼NE¼ and the NW¼ of sec. 25, in the N½ of sec. 29, in the E½SW¼ of sec. 30 and in lot 4 of sec. 31 are not withdrawn for power purposes.

A portion of the land in the NW¼SW¼ of sec. 25 is withdrawn for transmission-line purposes only (Department of the Interior Permit Sacramento 047946), to which the Commission's general determination of April 17, 1922 (2d Ann. Rept. 128) is applicable.

The remaining lands are withdrawn variously in Power Site Classification No. 267, dated August 24, 1933; Power Site Reserve No. 655, dated September 7, 1917; Power Site Reserve No. 656, dated September 27, 1917 (being for transmission-line purposes only); and Reservoir Site Reserve No. 17, dated June 8, 1926. Portions of the lands in secs. 25 and 36, among other lands, were also reserved pursuant to the filing on September 25, 1925, of an application for a preliminary permit for proposed Project No. 564, which contemplated construction of the Isabella Reservoir, and was rejected by the Commission on May 7, 1929.

The power potential of the above-described lands withdrawn for power purposes lies in their possible use for flowage purposes. It appears that some consideration is being given to the possible construction of a high dam on the Kern River below the Isabella Dam which would inundate the lands and also the Isabella Project. However, although the power potential exists, no plan is known that proposes use of the lands in connection with power development within the foreseeable future.

The Commission finds:

(1) A determination under section 24 of the Federal Power Act is neither necessary nor appropriate with respect to the following-described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 32 E.,
Sec. 25, NW¼NE¼, NW¼ and NW¼SW¼.
T. 26 S., R. 33 E.,
Sec. 29, N½;
Sec. 30, E½SW¼;
Sec. 31, lot 4.

(2) Inasmuch as the above-described lands withdrawn for power purposes are valuable for power purposes, the power

withdrawals with respect thereto should not be revoked.

(3) Inasmuch as the power value of the following-described lands is adequately protected by their withdrawal in Power Site Reserve No. 655, dated September 7, 1917, the existing withdrawal under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed Project No. 564 pertaining to said lands serves no useful purpose and vacation of the latter withdrawal is in the public interest:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 32 E.,
Sec. 25, NE¼SE¼ and S½SE¼;
Sec. 36, N½NE¼ and SW¼NE¼.

(4) Inasmuch as power development does not appear imminent and use of the hereinafter-described lands in the meantime for other purposes will not injure materially their power value, a determination as hereinafter provided with respect thereto is justified.

The Commission determines: The value of the following-described lands will not be injured or destroyed for purposes of power development by location, entry, or selection under the public land laws, subject to the provisions of Section 24 of the Federal Power Act, as amended, and subject to the condition that no improvements or structures shall be placed or erected upon said lands which will in any manner interfere with or increase the cost of the operation or maintenance of the Isabella Dam and Reservoir or any of its appurtenant facilities:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 32 E.,
Sec. 25, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 36, N½NE¼, SW¼NE¼, NW¼ and W½SE¼.
T. 26 S., R. 33 E.,
Sec. 30, lots 3 and 4;
Sec. 31, lots 1, 2 and 3.

The lands subject to this determination remain in a withdrawn status until the Bureau of Land Management, Department of the Interior, issues a formal order of restoration and no preference right to the lands is acquired by the filing of the applications for restoration and for release from power withdrawal or by this action taken by the Commission with respect to the lands.

The Commission orders:

(A) The application designated Docket No. DA–982–California is dismissed insofar as it pertains to the lands described in finding (1) herein.

(B) The existing power withdrawal pertaining to the lands described in finding (3) herein under section 24 of the Federal Water Power Act pursuant to the filing of the application for a preliminary permit for proposed Project No. 564 is vacated.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–4134; Filed, May 6, 1960; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–235]

AMERICAN ICE CO.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

MAY 3, 1960.

In the matter of American Ice Company, 6 percent noncumulative preferred stock; File No. 1–235.

New York Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: Only 6,162 shares were outstanding, with only 189 holders, as of January 14, 1960.

Upon receipt of a request, on or before May 20, 1960, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 60–4141; Filed, May 6, 1960; 8:47 a.m.]

[File No. 812–1294]

AMERICAN RESEARCH AND DEVELOPMENT CORP.

Notice of Filing of Application for an Order Exempting Proposed Transaction From the Provisions of the Act

MAY 2, 1960.

Notice is hereby given that American Research and Development Corporation ("Applicant"), a Massachusetts corporation and registered closed-end, nondiversified management investment company, has filed an application under section 17(b) of the Investment Company Act of 1940 ("Act"), for an order of the Commission exempting from the provisions of section 17(a) of the Act a proposed loan of not to exceed $50,000 to Intercontinental Electronics Corporation ("Intercontinental").

Intercontinental, a Delaware corporation, was organized in 1956, and is engaged in the business of the development and sale of various electronic, aircraft detection and navigation equipment. Applicant states that it owns approximately 17 percent of the outstanding voting securities of Intercontinental, and that it believes the making of the proposed loan would be prohibited by section 17(a) of the Act, unless exempted therefrom by an order of the Commission.

Under the terms of the proposed transaction, Applicant would make a loan of not to exceed $50,000 to Intercontinental, which would give to Applicant unsecured promissory notes in that principal sum with a maturity date not later than six months from the date of the loan, and providing for interest on the principal sum at the rate of six per centum per annum.

Section 17(a) of the Act, among other things, prohibits the borrowing of money from a registered investment company by an affiliated person thereof unless the Commission by order upon application pursuant to section 17(b) of the Act grants an exemption from section 17(a) of the Act, upon a finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; and that the proposed transaction is consistent with the policy of the registered investment company concerned, and consistent with the general purposes of the Act.

In support of its application, Applicant states that the making of the proposed loan would make additional working capital available to Intercontinental, would promote the commercial development of Intercontinental's business enterprises, and would thereby increase the possibility of ultimate profit or gain to Applicant. It is stated that the proposed transaction is consistent with Applicant's investment policy and that the application is filed in the normal course of business of Applicant.

Notice is further given that any interested person may, not later than May 16, 1960 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said

application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4142; Filed, May 6, 1960; 8:47 a.m.]

UNITED WHELAN CORP.

Notice of Application To Strike From Listing and Registration and of Opportunity for Hearing

MAY 3, 1960.

In the matter of United Whelan Corporation, $3.50 Preferred Stock; File No. 1-2991.

New York Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following: Only 11,950 shares were outstanding, with only 224 holders, as of April 1, 1960.

Upon receipt of a request, on or before May 20, 1960, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official files of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-4143; Filed, May 6, 1960; 8:47 a.m.]

FEDERAL RESERVE SYSTEM

MARINE CORPORATION

Notice of Tentative Decision on Application for Prior Approval of Acquisition by a Bank Holding Company of Voting Shares of a Bank

Notice is hereby given that, pursuant to section 3(a) of the Bank Holding Company Act of 1956, The Marine Corporation, Milwaukee, Wisconsin, a bank holding company, has applied for the Board's prior approval of the acquisition of 80 percent or more of the 5,000 voting shares of Peoples Trust & Savings Bank, Green Bay, Wisconsin. Information relied upon by the Board in making its tentative decision is summarized in the Board's Tentative Statement of this date, which is attached hereto and made a part hereof,[1] and which is available for inspection at the Office of the Board's Secretary, at all Federal Reserve Banks, and at the Office of the Federal Register.

The record in the proceeding to date consists of the application, the Board's letter to the office of the Commissioner of Banks for the State of Wisconsin inviting his views and recommendations on the application, this Notice of Tentative Decision, and the facts set forth in the Board's Tentative Statement.

For the reasons set forth in the Tentative Statement, the Board proposes to grant the application.

Notice is further given that any interested person may, not later than fifteen (15) days after the publication of this notice in the FEDERAL REGISTER, file with the Board in writing any comments upon or objections to the Board's proposed action. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington 25, D.C.

Following expiration of the said 15-day period, the Board's Tentative Decision will be made final by order to that effect, unless for good cause shown other action is deemed appropriate by the Board.

Dated at Washington, D.C., this 2d day of May, 1960.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN, *Secretary.*

[F.R. Doc. 60-4135; Filed, May 6, 1960; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

PRODUCTION RESEARCH ENGINEERING POOL CORPORATION

Notice of Small Business Concern Withdrawn From Participation in a Small Business Defense Production Pool

Pursuant to section 11 of the Small Business Act (P.L. 85-536), notice is hereby given that Tool Research and Engineering Corporation, Compton, California, has withdrawn from the Production Research Engineering Pool Corporation. The original list of participating members in the pool was published in the FEDERAL REGISTER (24 F.R. 9251, November 13, 1959).

Dated: May 4, 1960.

PHILIP MCCALLUM, *Administrator.*

[F.R. Doc. 60-4144; Filed, May 6, 1960; 8:47 a.m.]

[1] Filed as part of the original document.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

PERRY COUNTY STOCK YARDS ET AL.

Posted Stockyards

Pursuant to the authority delegated to the Chief, Packers and Stockyards Branch, Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act (7 U.S.C. 202) and were, therefore, subject to the act, and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name of Stockyard and Date of Posting

ALABAMA

Perry County Stock Yards, Marion ("Date of Posting" incorrectly shown in previous publication as May 14, 1959): Mar. 29, 1960.

ARKANSAS

Ash Flat Sale Barn, Ash Flat: Mar. 18, 1960.

COLORADO

Tri-State Auction, Strasburg: Dec. 21, 1959.

FLORIDA

Arcadia State Livestock Market, Arcadia: Feb. 26, 1960.
Glades Livestock Market Association, Belle Glade: Feb. 25, 1960.
Tri County Livestock Auction Co., Blountstown: Mar. 24, 1960.
Bonifay Livestock Market, Bonifay: Feb. 29, 1960.

FLORIDA

Chipley Livestock Co., Chipley: Mar. 7, 1960.
Walton County State Livestock Market, DeFuniak Springs: Apr. 8, 1960.
Gainesville Livestock Market, Inc., Gainesville: Mar. 1, 1960.
Jackson's Livestock Market, Gainesville: Mar. 8, 1960.
Jacksonville Live Stock Auction, Jacksonville: Mar. 8, 1960.
Kissimmee Live Stock Market, Inc., Kissimmee: Feb. 26, 1960.
Columbia Live Stock Market, Lake City: Mar. 2, 1960.
Cattlemen's Livestock Auction Market, Inc., Lakeland: Feb. 23, 1960.
Suwannee Valley Livestock Market, Live Oak: Mar. 2, 1960.
West Florida Livestock Auction Market, Marianna: Mar. 1, 1960.
Monticello Stockyards, Inc., Monticello: Mar. 15, 1960.
Mills Auction Market, Ocala: Mar. 15, 1960.
Mid Florida Livestock Market, Inc., Orlando: Mar. 9, 1960.
Paxton Livestock Cooperative Association, Paxton: Feb. 29, 1960.
Gadsden County Livestock Auction Market, Quincy: Feb. 26, 1960.
Sarasota Cattle and Commission Sales, Inc., Sarasota: Feb. 24, 1960.
Cattlemen's Livestock Auction Market, Tampa: Feb. 25, 1960.
Hardee Livestock Market, Wauchula: Feb. 25, 1960.
Sumter County Farmers Market, Inc., Webster: Mar. 1, 1960.

INDIANA

Jackson County Sales Barn, Brownstown: Mar. 19, 1960.

Scottsburg Sales Barn, Scottsburg: Mar. 17 1960.

IOWA

Hawkeye Livestock Auction, Fairfax: Mar. 1 1960.
Pocahontas Livestock Exchange, Pocahontas: Feb. 29, 1960.

KANSAS

Moline Auction Co., Moline: Apr. 6, 1960.
Winfield Livestock Auction, Inc., Winfield: Feb. 6, 1960.

KENTUCKY

Edmonton Livestock Market, Edmonton: Feb. 26, 1960.
J. & J. Livestock Market (formerly Horse Cave Stockyards), Horse Cave: Feb. 24, 1960.

MINNESOTA

D & D Sales Pavilion, Alexandria: Mar. 2, 1960.
Canby Livestock Sales Co., Canby: Mar. 17, 1960.
Dawson Livestock Sales Pavilion, Dawson: Mar. 7, 1960.
Eagle Bend Sales Barn, Eagle Bend: Jan. 18, 1960.
Elbow Lake Sales Co., Elbow Lake: Mar. 1 1960.
Rush City Livestock Sales, Rush City: Apr. 11, 1960.

MISSOURI

Roberts Bros. Livestock Commission Co., Bolivar: Mar. 17, 1960.

NEW JERSEY

Freehold Auction Sale (formerly Harry Zlotkin Sales), Freehold: Mar. 28, 1960.

PENNSYLVANIA

Penns Valley Sales Barn, Centre Hall: Feb. 23, 1960.
Indiana Livestock Market, Inc., Homer City, Feb. 4, 1960.
Knoxville Sales Co., Knoxville: Mar. 17, 1960.
Middleburg Auction Sales, Inc., Middleburg: Feb. 23, 1960.
Clinton Auction Livestock Market, Mill Hall: Feb. 24, 1960.
Troy Sales Co-Op, Troy: Mar. 17, 1960.
Lycoming Livestock Market, Inc., Williamsport: Feb. 23, 1960.

SOUTH CAROLINA

Lenox Stock Yards, Bennettsville: Feb. 20, 1960.
Chesnee Livestock Co., Chesnee: Feb. 4, 1960.
Smith Stock Yard of Columbia, Columbia: Feb. 17, 1960.
Darlington Auction Market, Inc., Darlington: Feb. 1, 1960.
Herndon Stock Yard, Inc., Ehrhardt: Feb. 2, 1960.
Harper Livestock Co., Estill: Feb. 26, 1960.
Hutto Stock Yard, Inc., Holly Hill: Feb. 15, 1960.
Tri-County Farmer's Livestock Market, Leesville: Jan. 28, 1960.
Neeses Stockyard, Inc., Neeses: Feb. 5, 1960.
Pickens Auction Market, Pickens: Feb. 3, 1960.
Saluda County Stock Yard, Inc., Saluda: Feb. 18, 1960.
Springfield Stockyard, Springfield: Feb. 6, 1960.

TENNESSEE

Crockett County Sales Co., Inc., Maury City: Jan. 28, 1960.

TEXAS

Bridgeport Auction Barn, Bridgeport: Feb. 15, 1960.
Clarksville Livestock Exchange, Clarksville: Apr. 7, 1960.
Lampasas Auction, Inc., Lampasas: Oct. 9, 1959.
Muleshoe Livestock Auction, Muleshoe: July 13, 1959.

VERMONT

Chickering Livestock Corp., Westminster: Nov. 16, 1959.

WASHINGTON

Woodland Auction Yards, Woodland: Feb. 10, 1960.

WEST VIRGINIA

Beckley Livestock Auction Market, Beckley: Feb. 3, 1960.

WISCONSIN

Antigo Auction Sales, Antigo: Mar. 1, 1960.
Equity Livestock Auction Market, Sparta: Mar. 28, 1960.
Equity Livestock Auction Market, Stratford, Mar. 16, 1960.

Done at Washington, D.C., this 3d day of May 1960.

GLENN G. BIERMAN,
Acting Chief, Packers and Stockyards Branch, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-4161; Filed, May 6, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-111]

MOORE-McCORMACK LINES, INC.

Notice of Application and of Hearing

Notice is hereby given of the application of Moore-McCormack Lines, Inc., for written permission of the Maritime Administrator, under section 805(a) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1223, for its owned vessel, the "SS Robin Trent," which is under time charter to States Marine Lines to engage in one intercoastal voyage commencing at United States North Pacific ports on or about May 20, 1960, to load lumber and/or lumber products for discharge at United States Atlantic ports. This application may be inspected by interested parties in the Hearing Examiners' Office, Federal Maritime Board.

A hearing on the application has been set before the Maritime Administrator for May 17, 1960, at 10:00 a.m., e.d.t., in Room 4519, General Accounting Office Building, 441 G Street NW., Washington 25, D.C. Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) must, before the close of business on May 16, 1960, notify the Secretary, Maritime Administration in writing, in triplicate, and file petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in Rule 5(n) of the rules of practice and procedure, Maritime Administration, petitions for leave to intervene received after the close of business on May 16, 1960, will not be granted in this proceeding.

Dated: May 4, 1960.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-4140; Filed, May 6, 1960; 8:47 a.m.]

Office of the Secretary

JOHN W. NORTHCUTT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months:

A. Deletions: No change.
B. Additions: No change.

This statement is made as of April 5, 1960.

JOHN W. NORTHCUTT.

APRIL 29, 1960.

[F.R. Doc. 60-4153; Filed, May 5, 1960; 1:00 p.m.]

HAROLD J. CARR

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months:

A. Deletions: Lone Star Cement Corp.
B. Additions: International Business Machines Corp, Gulf States Utilities Co.

This statement is made as of April 20, 1960.

HAROLD J. CARR.

APRIL 26, 1960.

[F.R. Doc. 60-4152; Filed, May 6, 1960; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket 50-153]

WESTINGHOUSE ELECTRIC CORP.

Notice of Issuance of License

Please take notice that no request for a formal hearing having been filed following the filing of notice of proposed action with the Office of the Federal Register on April 8, 1960, the Atomic Energy Commission has issued Construction Permit No. CPCX-16 authorizing Westinghouse Electric Corporation to construct the critical experiments facility at the Westinghouse Reactor Evaluation Center near Waltz Mill, in Westmoreland County, Pennsylvania. Notice of the proposed action was published in the FEDERAL REGISTER on April 9, 1960, 25 F.R. 3091.

Dated at Germantown, Md., this 26th day of April 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-4114; Filed, May 6, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 309]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 4, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 63066. By order of April 29, 1960, the Transfer Board approved the transfer to Fleet Highway Freight Lines, Inc., Parkersburg, W. Va., of Corrected Certificate No. MC 538, issued July 7, 1945, to J. Warren, doing business as Fleet Highway Freight Lines, Belpre, Ohio, authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Parkersburg, W. Va., and Cincinnati, Ohio, serving all intermediate points, and the off-route points of Covington, Ky., those in Hamilton County, Ohio, and those in Calhoun, Pleasants, Ritchie, Wirt, Wood, Roane, Tyler, and Wetzel Counties, W. Va., with service to and from points in Roane, Tyler, and Wetzel Counties restricted to perishable commodities in any quantity, and other commodities in truckload lots; between Chillicothe, Ohio, and Cincinnati, Ohio, serving the intermediate points of Dayton and Reading, Ohio; between Mineral Wells, W. Va., and Huntington, W. Va., serving all intermediate points, and off-route points of Ravenswood, W. Va., and those within five miles of Huntington; between Wheeling, W. Va., and Parkersburg, W. Va., serving all intermediate points, and between Marietta, Ohio, and Huntington, W. Va., serving all intermediate points and the off-route points of Racine and Minersville, Ohio, Mason City, Hartford, and Point Pleasant, W. Va., and points in a specified portion of Wood County, W. Va. John C. White, 400 Union Building, Charleston 1, W. Va., for applicants.

No. MC–FC 63100. By order of April 29, 1960, the Transfer Board approved the transfer to James L. Calhoun, doing business as Central Transport Company, North Platte, Nebr., of Certificate in No. MC 115919, issued December 6, 1957, to James L. Calhoun and Clarence L. Johnson, a partnership, doing business as Central Transport Company, North Platte, Nebr., authorizing the transportation of: Malt Beverages, from St. Louis, Mo., and Peoria Heights, Ill., to North Platte and Scottsbluff, Nebr.; and from St. Louis, Mo., to Chadron, Nebr.; and from Milwaukee, Wis., to North Platte, Scottsbluff, Chadron, and Sidney, Nebr.; and empty malt beverage containers on the return. R. E. Powell, 1005 Trust Building, Lincoln, Nebr., for applicants.

No. MC–FC 63105. By order of April 29, 1960, the Transfer Board approved the transfer to Byron Henderson, Jr., Corinna, Maine, of Certificate in No. MC 63779, issued September 24, 1953, to Garfield W. Henderson, doing business as Corinna Truck Express, Corinna, Maine, authorizing the transportation of: Household goods, between Corinna, Maine, and points within 25 miles of Corinna, on the one hand, and, on the other, points in Maine, New Hampshire, and Masachusetts. James F. Cox, Dexter, Maine, for applicants.

No. MC–FC 63118. By order of April 29, 1960, the Transfer Board approved the transfer to Arthur Retzlaff, Lynch, Nebr., of Certificate in No. MC 104875, issued December 12, 1954, to Wallace Courtney, Lynch, Nebr., authorizing the transportation of: Livestock, feed, building material, hardware, coal, agricultural implements and parts, farm machinery and parts, animal and poultry feeds, coal, emigrant movables, and grain, from, to, or between, specified points in Nebraska, and Iowa.

No. MC–FC 63123. By order of April 29, 1960, the Transfer Board approved the transfer to Glenn T. Decklever and Glen G. Canny, a partnership, doing business as Canny & Decklever, Osage, Iowa, of Certificate in No. MC 19595, issued April 20, 1949, to Ira Allison and Erwin F. Troge, a partnership, doing business as Allison and Troge, Osage, Iowa, authorizing the transportation of: livestock, feed, seed, tankage, and farm implements, from, to, or between specified points in Iowa, Minnesota, and Illinois. M. T. Van Voorhis, 633 Main, Osage, Iowa, for applicants.

No. MC–FC 63126. By order of April 29, 1960, the Transfer Board approved the transfer to Elmer N. Nielsen, doing business as Nielsen Transfer, Amery, Wis., of Certificate No. MC 39112, issued March 22, 1957, to LaVere Christenson, Deronda, Wis., authorizing the transportation of: General commodities, excluding commodities in bulk, and other specified commodities, from South St. Paul, St. Paul, Minneapolis, and Stillwater, Minn., to Wanderoos, Amery, Osceola, and Clayton, Wis.; and livestock and farm products, from points in St. Croix, Polk, and Barron Counties, Wis., to South St. Paul, Minn. Irvin C. Christenson, Deronda, Wis., for transferor.

No. MC–FC 63136. By order of May 3, 1960, the Transfer Board approved the transfer to L. Stanley Strang and Donald E. Strang, a partnership, doing business as Strang Transportation, Elmer, N.J., of Certificates Nos. MC 16634 and MC 16634 Sub 3, issued August 15, 1946 and April 23, 1952, respectively, in the name of Lester E. Strang, Elmer, N.J., authorizing the transportation over irregular routes of agricultural commodities, from points in Salem and Cumberland Counties, N.J., to New York, N.Y., Philadelphia, Pa., Baltimore, Md., and the District of Columbia; bakers' supplies, from Philadelphia, Pa., to Elmer, N.J.; fertilizer, grain and feed, from Philadelphia, Pa., and Baltimore, Md., to points in Salem and Cumberland Counties, N.J.; lime, from West Chester, Pa., to points in Salem and Cumberland Counties, N.J.; lime and limestone sand, from points in Montgomery County, Pa., to points in Salem, Cumberland, Glouster, and Atlantic Counties, N.J.; and ingredients used in the manufacture of animal and poultry feeds, from points in Pennsylvania and New York to points in New Jersey. L. Stanley Strang, Center Street, Elmer, N.J., for applicants.

No. MC–FC 63205. By order of April 29, 1960, the Transfer Board approved the transfer to Nathan H. Payne, Philadelphia, Pa., of Certificate No. MC 42035, issued October 25, 1956, in the name of Julia E. Payne, doing business as Payne's Express & Storage, Philadelphia, Pa., authorizing the transportation of household goods as defined by the Commission, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Virginia, New Jersey, Maryland, and the District of Columbia. Morris J. Winokur, Market Street National Bank Building, Juniper and Market Streets, Philadelphia 7, Pa., for applicants.

No. MC–FC 63213. By order of April 29, 1960, the Transfer Board approved the transfer to John P. Fontana and James D. Aldridge, doing business as J & J Transport, Laurium, Michigan, of a Certificate in No. MC 116483 Sub 1 issued January 6, 1958, to Ed Johnson, authorizing the transportation of lumber, logs, wooden posts, and poles, from points in Gogebic, Iron, Ontonagon, Baraga, and Houghton Counties, Mich., to points in Wisconsin, and the substitution of transferee as applicant in No. MC 116483 Sub 3, pending before the Commission. Michael D. O'Hara, Spies Building, Menominee, Mich., for applicants.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 60–4147; Filed, May 6, 1960; 8:48 a.m.]

MOTOR CARRIERS

Procedure Governing Compliance With Sections 215, 217 or 218, and 221(c) of the Interstate Commerce Act Within Specified Time in Proceedings Granting Certificates and Permits

MAY 5, 1960.

Effective May 9, 1960, all reports of the Commission and all examiner and joint board reports and recommended orders granting certificates or permits will be accompanied by an order requiring the applicant to comply with sections 215, 217 or 218, and 221(c) of the Interstate Commerce Act within 90 days (1) after the date of service of a final report, or (2) the date of service of a notice to the

parties that the recommended order has become effective as the order of the Commission, or in either event within such additional time as may be authorized by the Commission, failing in which the grant of authority made in the proceeding will be considered as null and void and the application will stand denied upon the expiration of the compliance time, providing a petition for reconsideration, rehearing, oral argument, or other relief is not filed seasonably.

Where an appropriate petition is filed, and the taking effect of the foregoing requirements of the order is stayed under section 17 of the Interstate Commerce Act, an order denying the petition will set a new compliance time within which the applicant must meet the requirements of sections 215, 217 or 218, and 221(c) of the Act.

In the event a petition is not filed, or one is filed and denied, and compliance is not made by the applicant within the allotted time, a notice will be served on the parties setting forth the fact of applicant's non-compliance and stating that in accord with the order entered in the matter the grant of authority made in the proceeding is null and void and the application stands denied.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 60-4177; Filed, May 6, 1960; 8:51 a.m.]

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